

STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

COMMITTEE WORKSHOP
ON IMPLEMENTATION OF RESTRUCTURING LEGISLATION
IRRIGATION DISTRICTS
DOCKET NO. 96-IRR-1890

Tuesday, November 5, 1996

11:05 a.m.

Merced Civic Center
678 West 18th Street, Sam Pipes Room
Merced, California

REPORTED BY:

SUSAN PALMER

COMMISSIONERS PRESENT
(Alphabetically Listed)

DAVID ROHY

STAFF PRESENT
(Alphabetically Listed)

GARY FAY

SUSAN GEFTER

JIM HOFFSIS

LINDA KELLY

DICK RATLIFF

LAURIE TEN HOPE

ALSO PRESENT
(Alphabetically Listed)

JAMES AKINS, Sausalito Irrigation District, Porterville

ROBERT BARANCK, Lindmore Irrigation District, Lindsay

MICHAEL BOCCADORO, Agricultural Energy Consumers Association
(AECA), Sacramento

DUANE CALL, Exeter Irrigation District, Exeter

KEN COOPER, PG&E, Stockton

KENDRA DAIJOGO, The Gualco Group, Sacramento

DOUGLAS DAVIE, Henwood Energy Services, Inc., Sacramento

ROXANNE FONG-CHEN, PG&E, San Francisco

STEVEN F. GREENWALD; Davis, Wright, Tremaine, LLP; San Francisco

PAUL GRIFFEN, Griffen Ranch and AECA, Madera

ALSO PRESENT, continued
(Alphabetically Listed)

JACKSON GUALCO, The Gualco Group, Sacramento

DOUG HANSEN, San Diego Gas & Electric, San Diego

HAROLD HARRIS, PG&E, Fresno

ROBERT W. HONDEVILLE, Turlock Irrigation District, Turlock

ED JEFFERS, Modesto Irrigation District, Modesto

MICHAEL JENNINGS, Energy Solutions Ltd., Fresno

DENNIS M. KEANE, PG&E, San Francisco

THOMAS S. KIMBALL, Modesto Irrigation District, Modesto

GARITH KRAUSE, Merced Irrigation District, Merced

JACK KRIEG, Modesto Irrigation District, Modesto

WILLIAM V. MANHEIM, PG&E, San Francisco

RICHARD MARTIN, South San Joaquin Irrigation District, Manteca

CHRISTOPHER J. MAYER, Modesto Irrigation District, Modesto

O.D. McVAY, JR., Corcoran Irrigation District, Corcoran

JEFFREY A. MEITH; Law Offices of Minasian, Minasian, Minasian,
Spruance, Baber, Meith & Soares, LLP; Oroville

KAREN NORENE MILLS, California Farm Bureau Federation, Sacramento

LEYNE MILSTEIN, Resource Management International, Sacramento

BOB MOUNT, Fresno Irrigation District

ALSO PRESENT, continued
(Alphabetically Listed)

BOB MUSSETTER, Glenn-Colusa Irrigation District, Williams

GUY NELSON, The Energy Solutions Company, Gold River

LINDA NELSON, The Energy Solutions Company, Gold River

JAMES R. PROVOST, Provost & Pritchard, Fresno

DOUG RAYNER, Laguna Irrigation District, Riverdale

RON RICHARD, PG&E, San Francisco

KENNETH M. ROBBINS, Flanagan, Mason, Robbins, Gnass & Corman,
Merced

ROSS ROGERS, Merced Irrigation District, Merced

LARRY SALINAS, PG&E, Merced

JIM TRUDEAU, Power Providers, Rancho Cordova

JEFF VAN MORNE, Henwood Energy Services, Inc., Sacramento

ERNEST VEENSTRA, Ivanhoe Irrigation District

TOM VERNON, Corcoran Irrigation District, Corcoran

JACK WALCO, Modesto Irrigation District, Modesto

JOHN R. WENDT, Wendt-Loper Governmental Relations, Inc.,
Sacramento

DALE WEST, Stone Corral Irrigation District, Visalia

GARY WIENS, PG&E, Fresno

THOMAS H. WILLOUGHBY, PG&E, Sacramento

RICHARD ZACKY, Zacky Farms, Fresno

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P R O C E E D I N G S

MR. RATLIFF: My name is Dick Ratliff. I'm with the California Energy Commission Legal Office. And I've been asked to start things off.

I wanted to first do introductions, something that I'm very bad at. This is Linda Kelly, with the Energy Commission Staff.

Jim Hoffsis, with the Energy Commission Staff.

Standing is Susan Gefter, the Energy Commission's Public Advisor. She'll make some remarks later about her role in this proceeding.

We have with us also today Commissioner David Rohy, sitting on my right. And Commissioner Advisor, Laurie Ten Hope. And the Hearing Advisor for the proceeding, Gary Fay.

Have I missed anyone from the Commission? Okay.

I see from the Agenda that I'm supposed to say what the purpose of this workshop is. And what I guess I would say is that we're trying to find out what the issues are, what the different irrigation districts and the utilities, as well, think, particularly with a focus on the applications which irrigation districts must file by July 31st.

We want to try to get some kind of common understanding about what information will be in those applications. And so the focus of today's discussion will be on those applications, the terms of the statute and what they mean for those applications.

And so we have an Agenda of items that have been -- issues that have been raised by people in discussions in the past. And we'll go through those. But any other things which you think are worthy of discussion, certainly this is the time raise them and we can discuss them here today.

I've also been asked to say something about the process that we're going to conduct for the allocations. I think here we're trying to balance two concerns.

One is that those districts which apply for CTC exemptions, that they get the due process that would be required by law.

At the same time we have a very strong desire, and I think we hear this desire from the districts themselves, that they want the process to be efficient and fast. And we're going to try to do our best to try to provide both inasmuch as we can.

If I could add to that, I think in that vein what we're intending to do is try to adhere to the literal wording of the

statute, follow the directive of the statute, that all applications be filed by January 31st, that all allocations for all the five years be made on the basis of those applications, that there be at least one hearing on those applications where there would be comment taken from all of those who are interested parties.

This hearing we would propose to be done in what we call the informal adjudicatory process provided by the new revisions to the Administrative Procedure Act. This informal adjudication basically requires as much process as -- it allows you to conduct the hearing in the manner that you think fits the needs of the situation.

And at this point we don't know to what extent there may be disputes over the allocations. So we think that there's enough flexibility in that process to try to be quick and efficient, but also make sure everyone gets the right to be heard.

When the applications are filed, we will, consistent with that process, have something called an ex-parte rule. Many of you are probably familiar with that. But that means at that point the parties to the proceeding, the applicants, the utilities and the Commission Staff who are also going to be acting as

parties to the proceeding, no longer have contact, direct contact on an informal basis with the Commissioners.

And at that point all the contact would be at hearings or at the hearing and through the application itself.

We think that we can probably make a decision on the allocations as early as March if there are no formal hearings required. If we have to have formal hearings, we think it'll probably be April before we can actually issue a decision granting the allocations.

With that I think I'd like to turn it over to Susan Gefter, the Public Advisor. She is the person I think you need to keep in mind in terms of getting reliable information on how to best participate in the proceeding. It is her role to basically facilitate participation in Energy Commission proceedings.

MS. GEFTER: I'm going to stand up so you all can hear me. I'm the Acting Public Advisor.

And the first thing I'd like to do is say there are some chairs over there piled up. People can may be grab some chairs and kind of stack yourselves behind people that are at the table.

The microphones here are for the reporter. We can't -- none of them are really part of a PA system. I don't even think

this one is a PA. It's not. So we're going to have to ask people to speak up or maybe stand up when you speak so we can hear you, but try to grab the mic when you do that so that the reporter can put it on a transcript.

One of the things that's really important is during this process people will be filing written comments even during the workshop period and even if we should go into the adjudicatory process, which Dick referred to.

And I have a piece of paper here that tells you what the address is and the docket number for this proceeding. And anything that you send to our Staff or to the Committee regarding this proceeding must also be sent to our docket unit because everything has to be filed. This is a public proceeding. And we want an original and 11 copies of anything, a letter, any kind of filings, anything at all.

I'm going to pass this around. This has the address and our docket number. It also has an E-mail number for our docket. It's somewhat unreliable. So I would try to use "snail" mail if you could. And let me just start passing this around.

I don't have enough copies for everyone, so people who are from the same office maybe just grab one.

The other thing is that my role is to try to facilitate your participation in the proceeding. On the notice that we sent out, our 800 number is listed there and also our 916 number, to the Public Advisor's Office. Any questions that you might have in how to participate, how to contact somebody at the Agency, if you're not getting information, let me know, and I will try to facilitate that and make sure that you are getting information you request, and that you're in touch with the people you want to talk to.

As I said earlier, this is a public proceeding. Anything that's filed will be in our docket unit. Anybody can see that information. And any questions you have, you can call me.

I don't have another sheet that has the Public Advisor's phone number, but it's on our original notice. So if you're here, you probably got a copy of the notice, and the number is there.

And at this point, that's all. If something comes up during the day, please ask me. I'll try to help you.

MS. KELLY: Okay. I think the way that it would be best to handle this is to try to let everybody have an opportunity to speak that has something to say. I think we'll go through each issue.

These are issues that have been raised by many different people to me on the telephone. They aren't necessarily issues of Staff. They're issues that other people have brought up to me.

And I think the purpose of this meeting today is to get an understanding of what your concerns are so that the Committee can understand what issues are out there and what opinions people have and what information there is some confusion about. And see if we can, today, straighten out some of the confusion over some of these issues. That's a goal.

If we can't come to any kind of consensus or agreement, I will be reporting that back to the Committee. But we're going to try hard, I think, to try to get as much consensus as we can.

I think that we'll start, and I'll maybe just announce what the issue is. And then there are various parties that have filed comments. Edison -- is Edison here today? Nobody is here from Edison. But PG&E certainly has filed comments.

And perhaps in that case it would be better if you represent your own comments than for me to represent those comments.

We'll start with the first issue, which is the initial allocation of the 110 megawatts. I thought this would be a

simple, pretty much, routine type of an exercise, but I'm finding it's really very difficult. And I apologize for the multiple versions, with more multiples to come.

I originally started out, and I got a list from the State Controller's, and that's where I started. And that list had water districts on it. And at the time I wasn't familiar whether a water district was an irrigation district or not. And now I know water districts can be irrigation districts and irrigation districts can be water districts.

So on the table there was my latest version of what I think this list should look like. And since that time, I have gotten other suggestions.

And anybody that was left off, it was not for any personal reason. Somebody said they're inactive. They're not inactive. In some cases I couldn't get ahold of you on the telephone. Some irrigation districts have moved. And when somebody said they were inactive, I tried to get telephone numbers for them and addresses for them, or got something back in the mail. I just made a judgment that, yes, perhaps they were inactive.

And so if you aren't inactive and I do not have you,

please stick up and let me know. And if I have left anybody off entirely or if you have any other comments about this list, maybe we could just start and start the dialogue that way.

By the way, please make sure when you speak that you say your name, and when you speak you speak into one of the microphones. Okay. Yes.

MR. MUSSETTER: Well, and whom you represent.

MS. KELLY: Yes. That as well. Thank you.

MR. MANHEIM: Bill Manheim for PG&E. I wanted to just pass out PG&E's view of all of the lists. We have kind of an annotated list. The first page -- it's a three-page document that's going around now. And actually why don't I walk a couple up to you, so you can see them.

MS. GEFTER: Excuse me. Has this been docketed?

MR. MANHEIM: No, it hasn't.

MS. GEFTER: Okay. We're going to need some copies. Do you have the docket number on there? Is it on there?

MS. KELLY: Well, we can just use this for today.

MR. MANHEIM: It's not there. Can we do it after the meeting?

MS. KELLY: Yeah.

I think our numbers are pretty close. I have one.

Would it be easy if I ran through this list? Would that be helpful, if I read the names on the list and people said "agree," "disagree"? Would that be helpful? Or how would be the best way, do you think, to approach this? Or just let me know if anybody has been left off.

MR. MANHEIM: What PG&E did is we took a look at your list, and at page 2 and 3 this has comments as to why we think it should be adjusted. So it's very clear, all the adjustments that we made. So people can look through it. If they have any disagreements --

MS. KELLY: Okay.

MR. MANHEIM: -- they can let you know directly, I guess.

MS. KELLY: Okay. All right, fine, then. We don't have copies for everybody, so they don't know what your comments are. But can we agree to have these sent for them, or...

MR. BOCCADORO: Well, Bill, I can point out one mistake in yours, and that's Terrabella ID is part of the Eastside Power Authority, which is covered in the third section. And so that should not be on the list of irrigation districts in Edison's

territory for purposes of this allocation.

And I think that brings you back down to the 15 that Linda had already identified for Edison. So I think you're probably pretty consistent on Edison's territory.

MS. KELLY: Ducor is one that I eliminated. And that was because they do not sell water, I was told, nor do they sell electricity.

And there are some irrigation districts, for instance, in South Bay Irrigation District, they still retain their water rights although they are, I understand, a joint power authority and other water districts are part of their business. But they do still carry out their major function, which is to sell water.

So in the case where Ducor does not sell water and does not sell power, that sounds like it's inactive to me. Again, it's just a judgment call on my part on what's inactive. These are not easy decisions to make on this particular issue.

I did take out everybody who was in the Southern San Joaquin Valley and the Eastside Districts. And, again, there were some that if I got no telephone number or no address, I just deleted those as well.

I found quite a few in the San Diego area that surprised

me. I just originally had only three from San Diego. And then I found others and called them up. And they said, yes, we're down here alive and well and doing business. So that is the list that has changed, I think, considerably.

Yes.

MS. MILLS: I have a question, Linda. Karen Mills with the Farm Bureau.

And I guess I have a question about process. And that is is it your intent that if an irrigation district and water district isn't on the list they wouldn't be considered when they submitted an application in January? Or if they demonstrated their eligibility within the allocation procedure even though they weren't on the list, would they be eligible to partake of this allocation?

MR. RATLIFF: It seems to me that the reason for creating this list is to try to determine the first aspect of the statute, is how many megawatts do you put out of the 110 in each IOU area.

I would assume that if we found out that the irrigation district really was in existence by the time the applications are filed, we would process the application then.

MS. MILLS: This is a way to sort of set the stage for the application procedure. And I assume you would then notify --

MR. RATLIFF: Right. Yeah. The statute talks about 110 megawatts to be distributed among the three IOUs in accordance with the proportion of irrigation districts in each area. And we're trying to sort of sort that out, first of all.

MS. MILLS: Right. I was wanting to clarify. For some reason an irrigation district came to life later on, that they wouldn't be precluded somehow by the urgent fact they were not on the list.

MR. RATLIFF: No. But we'd like to know now.

MS. MILLS: Sure.

MR. RATLIFF: It would be very useful to know that.

MS. MILLS: Things fall through the cracks.

MR. HOFFSIS: Do you know of anyone, any other irrigation districts offhand that are not here that should be here?

MS. MILLS: No, I don't. I'm just, you know, thinking of worst-case scenarios.

MS. KELLY: Yes.

MR. DAVIE: Doug Davie, Henwood Energy.

I guess the one question that sounds to me like the criteria here, to move it along, is you're trying to identify function, not name. And basically the irrigation district function is what's being included here.

MS. KELLY: Well, I want to identify if they're active.

MR. DAVIE: And the irrigation districts or water districts, there may be other entities that do have those authorities and maybe have yet another name. And I don't know, was that the intent, basically that the function --

MS. KELLY: Well, the function, I think, determines part of whether they are an irrigation district. The list I got from the State Controller said that, in order to be a special district, they must report to the State Controller's. And so that's the list I worked from. And if they are a special district, that's what I'm trying to determine.

And the question that I'm having a problem with is if they're active or inactive, because clearly they can become inactive and active. And that's where I'm having the most problem.

I think I've gotten all the irrigation districts that have changed their names to water districts. You know, that was

the first group that I tried to get squared away. But it's this question of active and inactive that seems to be somewhat problematic.

Yes.

MR. WILLOUGHBY: Tom Willoughby, PG&E. For the record, I was the lead negotiator on the legislation for PG&E on this issue. And I want to respond to Doug's point about function.

I think that the intent was to have these 110 megawatts, the clear intent, and I think everybody understood this, apply to irrigation districts, that is districts that were formed under the Irrigation District Enabling Statute in the Water Code.

If you are a California water district or a county water district or some other kind of public district that has a similar function, there was never any intent to include those districts.

If you've changed your name to the *XYZ Water District*, but you are organized under the Irrigation District Enabling statute, you are an irrigation district. So I think, from my point of view at least, I think there is a clear understanding that what was meant here were those districts that were organized under the Irrigation District provision of the Water Code; no more, no less.

MS. KELLY: And those are the ones that report, you would agree, to the State Controller's as special districts. And the only other thing that I'm trying to designate is whether they are active or inactive, because they can become active or inactive.

MR. WALCO: Linda, Jack Walco --

MS. KELLY: Yes.

MR. WALCO: -- on behalf of Modesto Irrigation District.

I too was in the room with Tom and Mike Boccadoro. And I think it's very clear that the intention was exactly as it's written in the statute, which is to say irrigation districts, because they have the clear authority to get into the power business.

And I don't think us venturing out into water district land gets us much beyond I think what Tom suggesting. And we would, for the record, want to note that we're in agreement with PG&E on this point. So we can start keeping track of our charges and credits and debits as we go along. But I think it's an important distinction that Tom draws.

MS. KELLY: Right. But the water districts that are on

my list -- let me just see if I can get this clear -- the water districts that are on my list, I was told, are, under the statutes, irrigation districts. The only thing that is different is their actual name. Is this correct or incorrect? You know, this is what I've been told, and --

MR. WALCO: It's going to be a district-by-district analysis, I think.

MS. KELLY: And all the water districts that I have in here, it is my understanding that they are irrigation districts and have the same privileges under the law as a district that has "irrigation district" in its name. The names -- the ones that I have included here are clearly irrigation districts. That is my belief, to the best of my knowledge, and to the different people I've talked to. Okay.

I think the best thing to do is that I will then look at PG&E's comments. If anybody else has any comments for me, I'll be glad to take those comments. Laguna Irrigation District is alive and well and will definitely be on the list.

And I will then recalculate this and let everybody see this again the next time that -- probably on the 27th, perhaps?

MR. RATLIFF: Um-hum.

MS. KELLY: The 27th I have a new list and hopefully -- I don't think it's going to be too much different.

I think I have talked to nearly half the irrigation districts on the telephone personally clarifying whether they are joint powers or whatever. And hopefully in the next week, with the input I have from PG&E and others, we'll finalize this or at least get it as close as I can possibly get it. Okay?

Yes.

MR. AKINS: Jim Akins from Sausalito Irrigation District. One of our neighbors, Tea Pot Dome Water District is strictly ag. And I think they would qualify. They deliver just to ag people.

MR. BOCCADORO: Are they organized as an irrigation district, though, one man/one vote?

MR. AKINS: I don't know, Mike. I'm not sure.

MR. BOCCADORO: That's the issue, I think, that Jack and I and Tom have raised here today, that the districts, the intent was those districts that were organized as irrigation districts with the electrical retail authority in that irrigation district itself. So I don't know the specifics about Tea Pot Dome either. But it's just not water districts that deliver to ag. It

was those specific water districts with irrigation district powers, *i.e.*, the ability to retail electric power.

MR. AKINS: Well, I know he's very much interested in this process and he hasn't been notified by the -- oh, he is apparently a water district.

MR. BOCCADORO: Okay. He's one of my members as well.

MR. AKINS: Okay. Yeah.

MR. BOCCADORO: And so I'll follow up with Tea Pot Dome --

MR. AKINS: Yeah, particulars let Bob --

MR. BOCCADORO: -- and find out how they are organized and try and clear that up.

MR. AKINS: Thanks.

MR. MUSSETTER: Linda?

MS. KELLY: Yes.

MR. MUSSETTER: May I ask Tom, is that the 1924 law that you're referring to, the Enabling law?

MR. WILLOUGHBY: Well, I don't have my copy of the Water Code in front of me, but --

MR. MUSSETTER: Maybe somebody else knows.

MR. WILLOUGHBY: -- there's only one --

AUDIENCE MEMBER: It's Division 11 of the Water Code.

MR. WILLOUGHBY: Yeah. There's Division 11 of the Water Code. The Irrigation District Enabling Act, that's what everyone in Sacramento had in mind, that only districts organized under this Enabling statute.

MR. MUSSETTER: So isn't this just a legal question?

And, Linda, you've got lawyers sitting all around you. If they are diffident because they haven't checked and done their homework, it seems to me that to move on here, we're hung up on something that --

MS. KELLY: Sure. Could I just ask --

MR. MUSSETTER: -- because they ought to resolve it in due course.

MS. KELLY: All right. Let me ask one quick question. I will.

I do notice that with PG&E, Mike, just quickly help me here, the number that has been added to San Diego, do you disagree with these names? Because I have talked to them and they have indicated to me that they are irrigation districts and --

MR. MANHEIM: Yeah. No, we don't. I don't think -- we just looked at the ones that were on your list to see if --

MS. KELLY: Okay. Fine. All right. Good.

MR. MANHEIM: -- they were active or inactive. We didn't attempt to see if there were any others.

MS. KELLY: Okay.

MR. BOCCADORO: Yeah. And if you can have -- I think there's a lot of water districts.

MS. KELLY: Please say your names.

MR. BOCCADORO: Michael Boccadoro.

There's probably a lot of water districts that would suggest they provide irrigation water to agricultural users and therefore are an irrigation district. In the general sense of the term, it is a legal question, as Bob has pointed out. And if the legal Staff can just maybe have these districts that want to be included provide copies of their organization documents to your legal counsel, that will clear it up in no time.

MR. MUSSETTER: Right.

MS. KELLY: And just one quick thing. They did not come to me. It was the State Controller's who gave me their names. And so nobody has come to me and said that they are an irrigation district.

These were the names of people that the State Controller

themselves sent me, so --

MR. BOCCADORO: Then maybe it can be done on a proactive basis, then maybe it can be followed up and looked at from a legal standpoint.

MR. RATLIFF: Do you know that the things that are described as irrigation districts on this list, in fact, that they are irrigation districts under the Water Code?

MR. BOCCADORO: I can't say that I know every one, no.

MR. MUSSETTER: No.

MR. RATLIFF: Do you think that's true for the most part or --

MR. BOCCADORO: I think for the most part, if they're organized as an irrigation district, they would be listed as such. And there may be examples of other districts that are organized as an irrigation district with the powers of an irrigation district that may be called something else, but I think those should be investigated. I think the IDs don't need the same scrutiny at this stage.

MR. RATLIFF: Okay.

MS. KELLY: Okay. We'll talk about this.

Okay. We'll move on to -- now that was the easy one --

on to Issue No. 2. This subject -- the issue, I'll just read it, is: What definition of existing irrigation district boundaries is appropriate for the purpose of evaluating allocation applications?

Example, the area from which the district boards are elected or wider definitions.

There has been -- people who suggest that beyond the political boundaries, which I define as those boundaries from which the board of directors are elected, that that would be the appropriate boundaries. And I have had other boundaries suggested to me.

I think the irrigation districts are the experts on the boundaries. And perhaps we could hear from the districts of what they feel are their boundaries.

MR. MUSSETTER: Well, I'll speak to that.

MS. KELLY: All right. This gentleman first.

MR. MOUNT: My name is Bob Mount. I'm the General Manager for Fresno Irrigation District.

I might point out that we have excluded areas within our district that we do provide water service to. And they do pay water service charges.

We also manage the groundwater under AB 3030 in those

areas. They are within the exterior boundaries of our district. And I really believe that they should be also included under this SB 1890 authority.

MS. KELLY: Now can you explain to me what "excluded areas" are? That's a term I'm not familiar with?

MR. MOUNT: We include the old core areas of the cities of Fresno and Clovis. There's the old Hammer Field, which is the old airport. Originally when the District was formed those lands did not receive any water service. And so they were excluded.

Since that time the cities of Fresno and Clovis have entered into water service agreements with the Irrigation District to provide the water for groundwater recharge which services those lands. So those lands are, in essence, a part of our District, although they're excluded.

Thank you.

MS. KELLY: Does anybody have any comments about that. Are there other irrigation districts that have excluded areas or any areas that would be outside the political boundaries or these boundaries decided by LAFCO or are nontraditional?

MR. MUSSETTER: I'd just like -- I'm Bob Mussetter representing Glenn-Colusa Irrigation District.

I think another concept that needs to be brought into the conversation at least is the boundary agreements with the Bureau of Reclamation. Now that's a factor in our area. I don't know about these other areas. But that would be probably as limiting or restricting as the voting area. And it's probably going to be congruent.

MS. KELLY: Are they the same that way?

MR. MUSSETTER: I think so. But there is some ambiguity, I guess, in our case with the thing that Bob Mount just raised about some of the -- there are some islands within the district, they're not large, but there are a few. Farm lands that are, for some reason or other, historic reason, have not been included for water service. The District's moving to attach or annex those areas. It's an ongoing procedure taking years to do, depending on the willingness of the owners and so on.

So for electrical purposes I would prefer to see that the exterior boundaries which are the same as the voting district boundaries and the Bureau of Reclamation compact, which are the same things, that's a pretty much firm, locked-in-concrete kind of a concept that your lawyers will probably like when they get to looking into it.

MS. KELLY: So do we agree then that the political boundaries are those boundaries that determine the voting, or is there a distinction between the LAFCO boundaries? Somebody's mentioned LAFCO to me. I'm not familiar with that.

Are those boundaries -- would they be different than the political boundaries and --

MR. MEITH: I can address -- my name is Jeff Meith.

Basically the LAFCO, Local Agency Formation Commission, is the entity that any of our districts, any irrigation district goes to to modify its political boundaries.

LAFCO also is statutorily charged to create what's called a sphere of influence. That's sort of the ultimate possible boundary area you could serve. It's a planning function. And you typically cannot annex land in your political boundaries, i.e. your director election boundaries without having it within your sphere of influence, but there's no necessary relationship. You are not obligated to annex your sphere of influence.

MS. KELLY: Okay.

MR. MEITH: So there is a distinct difference. The sphere of influence established by LAFCO is sort of the ultimate wish list that a county planning authority would use in

determining where district boundaries should be so they don't overlap. The political boundaries of the areas for the voting for -- wherein all the residents within your political boundaries have a right to vote on your directors and other actions.

MS. KELLY: Okay. So for the purposes of this allocation, there is general agreement that the load that will be exempted or be proposed to be exempted would be within the political boundaries of the irrigation district?

Yes.

MR. MAYER: My name is Chris Mayer and I'm with Modesto Irrigation District.

Just for the record I want to point out that the Assembly Bill does have a slightly different procedure in Stanislaus and San Joaquin Counties, where any irrigation district can serve load and apply for exemption in those counties without respect to their political boundary.

And I think it's pretty clear in the law, but I want to just make sure it's --

MS. KELLY: Right.

MR. MAYER: -- reflected in the record.

MS. KELLY: Yes, absolutely. The exemptions that are

in the legislation go without saying. They are there.

Okay. Fine, then. We can move on to the next issue.

MR. HONDEVILLE: Excuse me. Could I add one comment?

MS. KELLY: Yes.

MR. HONDEVILLE: Bob Hondeville for the Turlock Irrigation District.

Is there a date that we establish for the boundary issue, whereas a boundary is established at a certain date and time that this all can take effect?

MS. KELLY: Well, I don't think there is a date. Do you have --

MR. HONDEVILLE: Well, what I'm saying is if a district decides to expand its boundaries --

MR. BOCCADORO: Well, there is a description somewhere else in the legislation, not specifically in 374, which talks about changing boundaries. As I understand it, the legislation, it's precluded. It dealt more with a municipal issue, but it was precluded, as I recall it, in the legislation.

MR. HONDEVILLE: And this is going to apply, we all feel, to this as well?

MR. BOCCADORO: What's that?

MR. HONDEVILLE: You can't change your boundaries because you want to take on a --

MR. BOCCADORO: Yeah. In other words, you couldn't change your boundaries just so you could take advantage of the 110 megawatts.

MR. HONDEVILLE: Okay.

MR. BOCCADORO: I don't have a specific cite. Do you have a cite?

MR. MANHEIM: Well, I think it's in the 9600s area that says you can't expand your service territory -- if you expand your service territory, you have to pay a CTC.

I think also if you just look at the first phrase of Section 374, which establishes that 110-megawatt exemption. It talks about a recognition of the statutory authority in past investments existing as of December 20th, 1995. We read that to mean boundaries in existence as of that date.

MS. KELLY: Okay.

MR. MANHEIM: That was Bill Manheim for PG&E.

MR. MAYER: Chris Mayer from Modesto Irrigation District.

Just a slightly different opinion on what Bill just

said. The section that we were talking about refers to specifically annexation, that an entity can't annex facilities in order to get around the transition charge, not expansions of service territory. And they're two different things from an irrigation district standpoint.

MR. RATLIFF: Could you explain that a little bit further?

MR. MAYER: Okay. An irrigation district has a political boundary, which was the issue that the group was just speaking about. And that boundary can be increased through an annexation process similar to an annexation process a city would go through.

When it comes to distribution of electricity, the current law allows an irrigation district to distribute electricity either inside or outside its political boundaries. So it's possible to have electric service areas that are different than the irrigation boundary.

And, in fact, for the Modesto Irrigation District -- we have brought some maps along, because I think Linda had asked that maps be provided -- but there are areas of our political boundary where we do not provide electric service. And then there are also

areas outside our political boundary where we do provide electric service.

So I think that's maybe true perhaps for some of the other irrigation districts that are already in the electric business. And certainly any new ones entering the electric business would have that same ability. It's only the exemption issue, whether the exemption can be used within their political boundaries or not.

MS. KELLY: But do you agree to the political?

MR. WILLOUGHBY: Just to clarify that -- this is Tom Willoughby with PG&E -- I think that the statute is very clear. If you take a look at subparagraph (F) of paragraph 1 of 374, that the exemptions are to be limited to the boundaries, which I think we've all agreed are the political boundaries of the affected irrigation districts or the service territory that's defined by a boundary agreement, except in the cases of San Joaquin and Stanislaus Counties.

So it seems to me that -- and I'm not sure that I followed all of what Chris had to say -- but I think that the question of where these exemptions apply, my answer would be it's clearly within the political boundaries of the district, or if

there's a service territory agreement between a district and utility, that can apply with the exemption of the ability to serve generally in Stanislaus and San Joaquin Counties. Those are the places where the exemptions can be applied.

If MID, for example, wanted to provide service to someone in Riverside County, then you're legally allowed to do that because you can provide service outside your political boundaries, but these 110 megawatts of CTCs couldn't apply in that case.

MS. KELLY: Linda Kelly. Do you agree with that or do you have a problem with that?

MR. MAYER: No, we don't. In fact, we agree with what Tom just said.

But there was an earlier statement that refers to a different part of the new law, which I was still in the process of looking for, that talks about municipal annexations not being a recognized methodology for bypassing CTC.

And I was just trying to make the distinction between an annexation and an expansion of an irrigation district's electric service area being distinct things.

And it's probably a fine point and maybe doesn't apply

to too many general situations, but I just wanted to have it on the record.

MS. KELLY: Thank you. Okay.

All right. Now Issue No. 3. This is split between agricultural pumping and other loads required under the provisions of Section 374(a)(1)(F). This was brought up by one particular person. And I believe it was Jeffrey Meith.

MR. MEITH: Right.

MS. KELLY: Would you like to address this issue and tell your point of view on this?

MR. MEITH: Right. I don't know if I can be any more precise than I was in the letter, and hopefully parties have the letter. My name is Jeff Meith and I represent Oakdale Irrigation District.

We have looked at the provisions of 374(a)(1)(F). There are two clauses in that section. One is the one that Chris made reference to in connection with the service area issue and how you tie that into the service area agreement.

The other clause simply states that the allocation authority of your Commission applies to any load served by any irrigation district in those two counties.

We looked upon that provision as obviating the requirement -- well, clearly it obviates the requirement to some extent of the district boundary issue. We just discussed that as not being necessarily relevant.

But we also think it obviates the issue with respect to the split between agricultural pumping and other loads. That's how we read it. Haven't heard of any other reading that would, frankly, give any sense or credence to that clause.

So it is a provision that is limited to those two counties clearly. But Oakdale Irrigation District is of the opinion that should be what it says and that the allocation of CTC exempt load applies to any load in those two counties by any irrigation district which is serving or will serve retail load.

MR. BOCCADORO: Michael Boccadoro on behalf of the AECA. And I hope PG&E and Jack Walco will share this view. When we were drafting this section -- yeah, I think it's an interesting interpretation of that section, but I don't think it at all, anything in (F) would excuse Oakdale or any other irrigation district from Section (D), which very specifically requires a 50-percent requirement. That was the intent. It was meant for all irrigation districts, be they within Stanislaus or San

Joaquin. It's statewide, period, that they had to have 50 percent of their load pumping.

And so I don't see the interpretation that Jeff has just brought up as having any clear standing at all in terms of either legislative intent or the letter of the law.

MR. MEITH: Well, before we get into the litany here, I guess I'm going to express a little frustration with these intent people. I mean you all had your chance, and apparently you worked on the statute. And now what you're saying is don't read it literally.

MR. BOCCADORO: Well, the --

MR. MEITH: The statute -- excuse me, Mike.

MR. BOCCADORO: Yeah, go ahead.

MR. MEITH: The statute does say that the allocation authority of the Energy Commission applies to any load served by any irrigation district within that two-county area.

MR. BOCCADORO: And the statute also says that at least 50 percent of each year's allocation to a district, irrespective of Section (F), is going to have to be agricultural pumping load.

To interpret Section (F) --

MR. MEITH: To the state -- excuse me --

MR. BOCCADORO: -- to give an exemption from Section (D) is pretty creative, Jeff.

MR. MEITH: Mike, excuse me --

MR. BOCCADORO: Intent or literal --

MR. MEITH: -- in subsection (D) does it say irrespective of -- I didn't see that language.

Well, I know it's frustrating perhaps to, again, to the insiders to hear people look at the language and interpret it as it's written. But I think, as a practical matter, I supposed it's possible to say that it doesn't really state that the provisions with respect to the boundaries don't apply.

But it's clear that the intention there was to create a two-county area. It's clear that the boundaries don't apply. And it does use the words "any load."

Now I can honestly say I didn't write that language, and I wasn't in the meeting room when it was discussed. But it does say any load served by any irrigation district.

MR. BOCCADORO: I think what the language says is that any load is eligible subject to the other provisions. I mean if you were saying any load, then you would be suggesting -- wait a sec -- that it would be an exemption from the 110 megawatt.

Doesn't the same logic you've applied to the 50-percent requirement then apply to the 110? If they can serve any load --

MR. MEITH: No. Because it refers to any load allocated pursuant to paragraph 1.

MR. BOCCADORO: Precisely. This is all within --

MR. MEITH: So I'm not --

MS. SPENCER: -- paragraph 1.

MR. MEITH: -- saying there's an exemption from the 110. I'm not saying there's an exemption from the provisions of 374.

MR. BOCCADORO: Or from (D).

MS. MILLS: Karen Mills for the California Farm Bureau.

I think that, as you review legislation, part of the goal of doing that or part of the requirement is to read the language together.

And I think that what paragraph 1 provides for is that you're supposed to read (A), (B), (C), (D), (E) and (F) together. And I don't think that (F) precludes the requirement that 50 percent of the load be for agricultural pumping purposes. And that's the way we would read the language and the requirement. And we would support an enforcement on that basis.

MS. KELLY: Tom.

MR. WILLOUGHBY: Tom Willoughby for PG&E.

Michael and I were the guys that negotiated this. And I think that -- and I understand your frustration. But I want to actually go to the literal language and suggest what I think the language means if you simply read the words along with the punctuation that accompanies them.

Paragraph (F), which is part of paragraph (1), sets up a general condition. Paragraph (1) tells you how these 110 megawatts are going to be allocated and all of the conditions. And (D) obviously talks about the 50-percent split.

And then you get to paragraph (F), which in essence says that the load has to be located within the political boundaries of the irrigation district.

And, as a matter of history, what happened at that point is our colleagues from Modesto came into the negotiations and they said, "Basically Modesto serves, provides electric service to everyone within its political boundaries. If you restrict the allocation of these CTC exemptions just to the political boundaries, Modesto won't be eligible to ask for a share of the 110."

The resolution of that problem was to say, "Okay. We will rewrite this and allow -- write it so that it allows districts like Modesto and others," -- Modesto was good enough to say don't just restrict it to us, let others do it, too -- "but allow them to serve in Stanislaus and San Joaquin Counties and to use whatever CTC exemptions they might get for customers in these two counties."

And if you read what it says, the beginning sentence of (F) talks about the load has to be within the political boundaries. And then you have a semicolon. And then there's a complete new thought, additionally, in addition to the idea that the load has to be within the political boundaries, the provisions of subparagraph (C), which basically indicate what you have to do to apply, these application provisions are going to be applicable to any load served by an irrigation district within the counties of Stanislaus or San Joaquin County.

So I think that Karen is right. I think the punctuation goes to that, that (F) basically establishes the basic rule, that you've got to be within your boundaries. And then it says, "but, by the way, the allocation," that is paragraph (C), "can also be applied to customers within Stanislaus and San Joaquin County."

I think that's the plain reading of the black-letter law. And I understand that you disagree with that, but I would offer the two points:

That, one, I think is the plain reading of the words.

And, secondly, as one of the participants, I think that that was the intent of the participants who negotiated this.

MR. BOCCADORO: One more point. I think it's real important, is the 50-percent ag pumping load requirement is something none of us, frankly, in the irrigation district or water district were thrilled about. That came from the Legislature itself, and it was demanded into the section. And I think all those districts that participated, Turlock and the others that had lobbyists in Sacramento, that issue came up time and time again by the Legislature, that they wanted 50 percent of it.

It's not something I asked for. It's not something Modesto asked for. PG&E may like it more than all of us, but it's not something that we wanted. It's something the Legislature demanded. I think that's a real important point, as well.

MR. MEITH: I think that interpretation would probably lead to then being a frustration and being able to use the CTC exempt loads because in the case, for example, of Oakdale, where

we would hope to take advantage of the provision and ultimately, as Oakdale has been planning for probably eight years, getting into the retail power business throughout its service area, it's obviously very difficult to do that, given that interpretation.

So I could see why Modesto, or Mike, for example, wouldn't have supported it. But I would have to say that that interpretation that PG&E's advocating and that Mike's advocating probably does more than anything to frustrate irrigation districts who ultimately desire to serve ag load within their boundaries.

MR. RATLIFF: Wouldn't it be non-ag load?

MR. WALCO: On this point I have to agree with Jeff, is that it was clearly recognized by us in the negotiating of the section is that if we had our wish there would be no 50-percent requirement.

But since, as Mike indicated, the conferees were very clear about wanting that kind of threshold that we agree with the Farm Bureau, that the plain reading of the statute is "Any load allocated pursuant to paragraph (1)," which includes sub(D).

And we've written a letter back to Oakdale indicating that we made that agreement; we're going to stick by it. And we'll move ahead.

MS. KELLY: Okay. Could you say your name for the record?

MR. WALCO: Jack Walco.

MS. KELLY: Does anybody else have any comments on this subject?

I think, just in summary, I think that Oakdale will just continue to disagree with the rest of you on this issue. Staff would like to just -- we have read this ourselves, and tend to agree with Karen, that you read the legislation literally and together. And so we have also looked at that.

And it appears logical to us that the pumping load was meant to be for Southern San Joaquin and Stanislaus as well as the rest of the 110 megawatts. So in this case I think we do not have consensus. And we'll note the various positions of everybody and move forward to the next issue.

Issue No. 4. "What method should be used to measure the megawatts of irrigation district retail load exempted by the statute."

From the first time we saw this legislation, there is -- probably this is the one issue that has been mentioned to me time and time again as being important to various people. And I think

just looking at it could create some problems if you're going to try to measure the megawatt.

For the en banc hearing PG&E put forward a proposal that I have summarized in my Staff Issue Paper. And this proposal, after Staff has read it, appears to be reasonable, and that that's our general impression.

And I'd like to ask PG&E, I think, best again for you to perhaps explain to everybody here, some who might not have read all your comments, exactly what your proposal is and how this would work for both, two types of customers basically, those with demand meters and those without.

MR. KEANE: Yeah. I'm Dennis Keane with PG&E. And PG&E's position is that the CTC exemptions are allocated to individual customers and that a kilowatt or a megawatt is the individual customer's maximum demand during the entire year, that that's the correct way to measure it.

So for customers that have demand meters, it's a simple matter. Every month you know what their maximum demand is. You can just take the maximum of the monthly demands, and that will give you the maximum for the entire year.

For customers that don't have demand meters, you want to

estimate it as best you can. And probably the best way to do that is to use utility load research data, where samples of customers for classes like, say, residential where there are no demand meters -- residential customers typically don't have demand meters, although utilities have small samples of those customers that do.

And so from those samples you develop load factor estimates that relate the maximum demand during the year to the entire usage during the year. And those load factors that have been estimated from the samples can then be applied to individual customers' meter data, usage data for the entire year. And that's the way you can come up with it, the best estimate of what their individual maximum was for the year.

Now since the en banc we've thought a little bit more about agricultural customers. PG&E has two types of rate schedules. One where the ag customers do have demand meters; the other ones, they don't. But customers are billed on their connected load at the ag pumps. And so for those kind of loads, it's possible to actually use that connected load data. That probably will give you a better estimate than applying load factors to their usage.

MR. MOUNT: I'm Bob Mount again, with Fresno Irrigation District.

I really don't understand a lot of what's being said here and don't really understand the proposal being made by PG&E. But I suspect that it's not in the interests of the irrigation districts.

[Laughter.]

MR. MOUNT: I think it would be a lot easier if we put our demand meters on the irrigation district substations at the transmission offload points and let that determine when we exceed the allocation. If it does, they can advise us of how much, and we can pay the allocations or the CTC costs based on that overage.

I think short of that, if we're under that allocation, I don't think we should be paying exemptions. And that's with the proviso that half of our load go to the pumping load and half unrestricted.

MS. KELLY: Yes.

MR. GREENWALD: I'm Steven Greenwald. I'm with the law firm of Davis, Wright, Tremaine. I'm here today on behalf of Hunt-Wesson, which is a customer. I'm not an irrigation district and I'm not an utility.

We believe that California electric consumers are the intended beneficiaries of this exemption and, in fact, the intended beneficiaries of the rest of the statute. And we fundamentally disagree with PG&E's proposal.

It may be, from an engineering perspective, a nice way to track purported megawatts. But it's not consistent with the intent of the legislation.

Basically what we're talking about is a CTC exemption. We pay, as consumers, everybody in this room -- or perhaps not everybody in this room, but California customers will pay CTC on kilowatt hours of electric usage. We will not pay CTC on peak demand.

It is true that the legislation talks about megawatts of exemption but they cannot be applied in a fair or consistent manner. What needs to be done is to look at those 110 megawatts and allocate, change that into kilowatt hours on which customers will be paying CTC.

In other words, if we have a 110 megawatts of exemption, we should have 110 megawatts at a hundred-percent load factor of kilowatt hours allocated among the irrigation districts to go to customers.

The problem, the deficiency, the unfairness, with what PG&E proposes, we could allocate 10 megawatts to a customer who has a 10-percent load factor over the year and just peaks in one month, and that customer eats up a disproportionate amount of the allocation. And this is just a critical point.

I prepared a document, which possibly I should have circulated, but let me just put this into perspective, what we're talking about. And, remember, in this legislation the utilities got what they wanted. They got CTC recovery of billions of dollars for tens of thousands of noneconomic generation. That's what they got.

What we're talking about here is 110 megawatts. Under this proposal that Hunt-Wesson, as a customer, is advancing, at a hundred-percent load factor we're talking about, just for comparing that to the kilowatt hours PG&E and Edison alone sold, we're talking about less than one-half of one percent. We think, as consumers in this state, we're entitled to have at least aspect of the competition proceed.

So we think the notion of doing it on peak demand is just fundamentally unfair. You don't pay CTC on peak demand. You pay it on actual usage.

MR. BOCCADORO: I'd just like to offer. I think that's a real important point.

MS. KELLY: Your name.

MR. BOCCADORO: Michael Boccadoro on behalf of the AECA.

MS. KELLY: I'm sorry.

MR. BOCCADORO: I think that's a real important point, because we disagreed for a long time with PG&E's use of connected load or peak demand. We think it greatly overestimates ag's usage and benefits from the system. And agree that CTCs are going to be applied on a kilowatt-hour basis, not on a peak demand or connected load.

And I would agree with Bob. The fairest way to resolve this is to have the irrigation district load as it is measured at their download side or the substation. And that'll give you an accurate 110-megawatt exemption, irrespective of the connected load or peak demand, which is not how CTC should be measured.

MR. MOUNT: Bob Mount again. I might just mention that the ag load that the Legislature and the irrigation districts are concerned about has probably got the lowest load factor of all the loads we're talking about, anywhere from 10 to 30 percent.

There's no way that those people are going to be able to take advantage of this thing realistically. All of the exemption credits are going to non-ag load customers if you allow PG&E's interpretation of this provision to go through.

You really need to give these guys, these growers, the breaks. And that's what the Legislature intended.

MR. HOFFSIS: Well, if this is what the Legislature intended, when you folks were putting the language together, why did you allow the ambiguity to persist --

MR. MOUNT: Well, we --

MR. HOFFSIS: -- when you could have written in "kilowatt hours," could you not?

MR. BOCCADORO: We could have written in kilowatt hours. If you understand the intense pressures I think all of us were operating under.

Tom, correct me if I'm wrong, but I don't remember a definition of "megawatt" ever getting discussed either formally or informally during the process.

MR. WILLOUGHBY: I want to agree with Michael. Tom Willoughby for PG&E. I think when the negotiators were doing this it must have been one of those 3:00 a.m. sessions. And literally

there were some 2:00 and 3:00 a.m. sessions.

And the 110 megawatts was in itself a compromise. We were instructed by the Conference Committee to come up with a compromise or they would come up with something that neither one of us would like, in so many words. So the 110 megawatts was a compromise. For whatever reasons, including fatigue, we didn't go on to say "And how are we going to define 110 megawatts." That was an issue that simply never surfaced.

I'm sorry about that.

MR. RATLIFF: Could I just interject a question here? Since we do have everyone in the room, I think you probably could answer it. Is there any legislative history of which you're aware which addresses this issue, or any of the other ones?

MR. BOCCADORO: No, none whatsoever.

MR. RATLIFF: There are no committee reports and so forth?

MR. WILLOUGHBY: The only thing that you have by way of legislative history is not the private hallway negotiating sessions, but the public sessions before the Conference Committee were all videotaped. There are -- and we have them, but there are 52 videotapes, 52 two-hour tapes that are available, could be

perused at your leisure.

MS. KELLY: Yes, this gentleman with the microphone.

MR. TRUDEAU: I'm Jim Trudeau with Power Providers. We're a utility design and construction firm working with a number of the irrigation districts here.

To inject a little bit of reality that I think is necessary to get a feel for what PG&E has proposed, the average annual household usage is approximately 6,000 kilowatt hours a year in California for residential, within 10 percent plus or minus.

Stan, you used to work in residential, am I fairly close? Dividing that by 8760, you end up with an annual peak demand, by PG&E's calculation, of 684 watts. I don't need a hair dryer, that's obvious. Anyone here who does, that's probably 1200 watts, which just blew this out by a factor of two. I'm assuming nobody has a coffee pot or a toaster or a microwave.

The methodology, while interesting from an engineering point of view, is inherently flawed and should not be used.

MS. KELLY: Excuse me. Could I have your name again? I think it might have been --

MR. TRUDEAU: Jim Trudeau.

MS. KELLY: From where?

MR. TRUDEAU: Power Providers. We're a utility design and construction firm.

MR. MANHEIM: Can we respond to that just for a minute? I mean I know everyone has something to say, but just to correct what we believe to be an inaccurate description of our proposal, Dennis can respond to that for a moment.

MR. KEANE: Yeah. Basically using --

MS. KELLY: Okay. Is that all right with everybody, let them respond and then you can address that?

MR. KEANE: Yeah. Using the load-factor approach you'll get a residential max load for the year of probably something closer to, you know, six kilowatts or ten kilowatts or something like that. You're going to get more than the average for the year. That's the whole point of it. It's that it's an estimate of the maximum of the residential households we have here in the entire year, not the average load.

MS. KELLY: Yes.

MR. DAVIE: If I can add one thing, Doug Davie with Henwood Energy again.

I think if you look back there's also another line in

the legislation that very strongly supports I think what people are saying, with Mike and Bob Mount and others, and that is that the Commission, in making its allocation, wants to best ensure usage within the allocation period.

In other words, they want to get the maximum usage of this allocation that definitely pushes us toward the kinds of interpretations that you're hearing coming from Mike and definitely goes against what I think PG&E's proposal is, which assures minimum usage of that allocation.

MS. KELLY: Yes, Chris.

MR. MAYER: My name is Chris Mayer with Modesto Irrigation District.

We also believe, similar to some of the other people that have spoken, that the exemption goes not to specific customers, although -- but to the irrigation district.

So the concept of measuring the load on a group basis and being able to use it on as high a load factor basis as possible, we think is what's intended here.

I think someone asked, "Is there any way of trying to figure out the intent?" And the only way I can think of was, on this particular exemption, a price tag was put on the exemption

because the price tag is basically a cost shift to other PG&E customers.

And I think with some basic reverse engineering, you could take that price tag and work backwards and see how many kilowatt hours of exemption could be bought for that price. And I think that's maybe one way of trying to reconstruct the intent.

I don't presuppose to even know what the result is, but I mean, in fairness, to try to track this thing back, that's one possible way of doing it. And I'm not sure if it even matches our position or not, but...

MR. BOCCADORO: I would agree with Chris. If there's no other way to resolve this, if PG&E's not willing to come over to our view on this, and I think for financial reasons they probably won't, that may be the best.

And I think we're all in agreement on what the dollar amount of Section 374 was, or at least as it was discussed before the Legislature. And if we have to do the reverse math, that would give us an indication of where this is at.

And I think that's fair because that was clearly -- you know, how the Legislature got us to negotiate this down to 110 megawatts. It was a dollar amount.

MR. KEANE: I'm not sure what the adopted price tag is.
I know I was working on this --

MS. KELLY: Could we share that adopted price tag?
I've heard the number, but --

MR. BOCCADORO: It was \$125 million for all three
provisions, if I recall correctly, Chris, out of Section 374. So
you'd have to --

MR. KEANE: Okay. I can only I say I was working on
doing -- not the reverse math, but actually the forward math at
the time. And our working assumption was that a megawatt meant
the annual maximum load when we were calculating what the costs to
PG&E would be.

MR. BOCCADORO: And did that, when you applied it to
all three of these, come out to a \$125 million?

MR. KEANE: That sounds in the ballpark. I'd have to
check with that figure.

MR. MANHEIM: Maybe over the lunch break we can make
some phone calls to reconstruct how we came up with that --

MS. KELLY: Okay. All right. So maybe we could just
--

MR. MANHEIM: -- and do a presentation?

MS. KELLY: All right. Just discuss this and then come back to this. Would this be a better way to do this, to get some more information about this amount. And then after lunch come back and just continue our discussion and give everybody a chance to think about it?

MR. MANHEIM: I'm Bill Manheim, PG&E.

Can I introduce just another factor that we need to think about?

MS. KELLY: Sure.

MR. MANHEIM: And that is the way we chose to measure a megawatt needs to be done consistently, okay? So let's go back to the 50-percent ag-load requirement. If we measure on a kilowatt-hour basis -- which PG&E does not support, we think it should be done on a maximum-demand basis for both ag customers and customers qualifying for the exemption -- but if you do it on a kilowatt-demand basis, what that means is you have to apply that to ag customers as well. So that means half of your kilowatt hours have to apply to agricultural water-pumping uses.

The effect of that is to swing dramatically -- is to require that a whole lot more of those exemptions apply to agricultural water uses than would be the case under our proposal.

And I think people should think through the implications of that because, I personally am concerned if that approach were adopted the effect would be, the agricultural water pumpage usage would be such a limiting factor, since half of the kilowatt hours would have to be allocated to that purpose, that you wouldn't be able to find enough usage in the state to allocate the whole 110 megawatts.

MS. KELLY: Yes.

MR. GREENWALD: If I may, Steve Greenwald again.

Bill Manheim is getting on to Issue No. 5. And the way this has been set up, 4 and 5 are separate. And I addressed No. 4, but now he sort of opened up 5.

And, again, --

MS. KELLY: But let's not open up 5.

MR. GREENWALD: Well, he --

MS. KELLY: Can we just --

MR. GREENWALD: I think we're pretty --

MS. KELLY: Okay. Can we just agree we're going to move on to 5?

MR. GREENWALD: No, I don't think so.

MS. KELLY: Okay.

MR. GREENWALD: I think he sort of opened the door very far here.

MS. KELLY: Okay.

MR. GREENWALD: He's put on the table a fundamental proposition, which I fundamentally disagree with.

There are two separate provisions: How much are the CTC exemptions, and how do you measure the ag load.

Point number one is that the purpose of the ag-load requirement is not to allow the utilities to limit the use of the exemption. The purpose is to have, when the irrigation districts make use of the exemption, to make sure that ag customers and non-ag customers are treated fairly. That's an issue between the irrigation district, this Commission, the ag customers, the non-ag customers.

And if those four parties come up with a way that everybody's satisfied with and is nonexact matching in the way PG&E says, that's what the Legislature wants. They want fairness between ag and non-ag.

And I implore you to understand that, in addressing that issue, the utility who's clear goal here today and in the past has been to minimize the availability of this exemption, is the last

party we should be listening to.

So, point one, there's no need for this pseudo-consistency. You know, foolish consistency is the hobgoblin of little minds.

The purpose here is fairness between ag and non-ag customers. And if those constituent groups, the protected classes are satisfied, consistent with this Commission's review, that's the end of it, as long as we can come up with a process.

We certainly don't need to go out, as PG&E's suggests, and have some micromanagement matching water pump for water pump, and all this other nonsense. It's just not the intent of the statute.

The statute tells you, this Commission, you're empowered to go out expeditiously, equitably, efficiently to give out these allocations, and do it in a way they can start come into being January of '97.

MR. HOFFSIS: So just very clearly, though, your position is that if the decision were that Hunt-Wesson were to get a thousand kilowatt hours worth of CTC exemption, that there's no requirement, despite the 50-percent proportionally load that's used to power pumps, there's no requirement that there be,

likewise, a thousand kilowatt hours of pumping of agricultural purposes to meet that 50-50 requirement.

MR. GREENWALD: That's right. What we're proposing is that when you allocate the 110 megawatts, for purposes of determining a statewide amount for 110, on the non-ag side, you're looking at kilowatt hours. On the ag side, there's greater flexibility. And there has to be because the recognition, a lot of ag load is two or three months a year, have very low load factors.

And as Bill has said, if you do it his way, with consistency, the ag guys are not going to get their share. It's never going to be imagined --

MR. MANHEIM: That's not what I said. I'm sorry, Steve, but that's not what I said.

MR. GREENWALD: Okay. Well, it's --

MR. MANHEIM: Our position, maximum demand treats agricultural customers and other customers very fairly. You use the maximum usage for both types of customers. And that's how you decide how 50 percent is split.

So that means if you're an agricultural customer and you only pump one month of the year, but your peak demand is 10

megawatts, than you can match that with a 10-megawatt, hundred-percent demand -- hundred-percent capacity factor industrial user somewhere else.

But the point is if you use maximum demand for both measures, that's a fair way of allocating -- of applying the 50-percent rule.

And just one other thing I'd like to say. And that is Issue No. 4 is how do you measure a megawatt. Issue No. 5 is different. And my view is how you measure a megawatt needs to be -- once there's a decision made -- it needs to be applied consistently to all purposes of the Act.

You can't measure a megawatt one way for one purpose and measure a megawatt another way for the other.

MR. GREENWALD: Well, I disagree. There's -- when looking at satisfying, fulfilling the statutory mandates in the statute, we can. There's no reason why we can't, other than this notion they must be the same.

And the net result is if they must be the same, somebody's going to get hurt. A lot of these exemptions will not flow to the consumers of this state. And the only people who will be happy will be the utilities who, for whatever reason, are

seizing every little nuance in the statute to make sure that these exemptions are delayed and reduced and not used by the public as the Legislature intended.

MR. MANHEIM: That's just a very unfair characterization. The statute says 100 megawatts of load, that this provision is intended to allow irrigation districts to serve 100 megawatts of load -- or 110, I'm sorry. No, really, it is the 110. We're not trying to take that away.

But it says very specifically "of load." And if you look throughout the Act, it talks about "any load," any load allocated and exempt under this process. It talks about load very specifically.

Under the kilowatt-demand approach, you could apply that as much as 500 megawatts of load, such that PG&E would no longer be serving 500, maybe even more, depending on how creatively you could do it.

Our view is a hundred megawatts of load means a hundred megawatts of load. That these exemptions can be used so that irrigation districts will have the opportunity to serve CTC-free 100 megawatts of load.

And there is an industry understanding about what that

means and how that's measured. And that is exactly what PG&E's position has been here.

MR. GREENWALD: May I just respond for one second. And that is, you know, I represent a non-agricultural load. This is what I've said. I don't have a problem -- this is the way we should measure for my side of the exemptions. I don't have a problem with the agricultural folks getting up and talking about how they propose their side of the equation be measured or the irrigation districts.

I think among the three of us in this Commission, we're the players. Again, the fundamental interest to be protected here is that of the ag-load customers, make sure they get their fair share. And I'd be very curious to see whether they're interesting upon the same myopic consistency that PG&E feels is the only way fairness can come through.

MS. KELLY: Okay. Well, all right. One more, and then we'll --

MR. MOUNT: Bob Mount again, Fresno Irrigation District --

MS. KELLY: -- adjourn and we'll come back to this after lunch, okay?

MR. MOUNT: -- Fresno Irrigation District. I think PG&E said it. There probably isn't enough ag-pumping load in a lot of areas to cover this. So this -- it appears to me, anyway, that this is a way to reduce the non-ag pumping load that PG&E may have to provide CTC exemptions for.

And I would encourage the Commission Staff to interpret this thing based on the load, ag-pumping loads, that we're talking about and not the total CTUC [sic] -- what is it -- the kilowatt hours that I believe -- the one Mr. Boccadoro was mentioning.

MS. KELLY: Okay.

MR. MANHEIM: Just to clarify. We said we don't think there's enough to go around if you do it on a kilowatt-hour basis.

And can I just -- I'm sorry. There just one other point I'd like to make here. There's a constituency who's not at the table who is very much affected by the statute, and that is the rest of the ratepayers who will have to pay for these exemptions.

These exemptions aren't borne by PG&E shareholders. The statute specifically says that the cost of these exemptions will be trapped for firewall purposes and passed on to the remaining customers. And those customers had an understanding about how much these exemptions were going to cost them.

And --

MS. KELLY: Okay.

MR. MANHEIM: -- if you look at the difference between the kilowatt-hour approach and what the cost is to other customers that represents versus connected demand. I mean that's another important constituency that needs to be considered when this decision is made.

MS. KELLY: Yeah. Staff is aware of that constituency as well.

Let's just move on now, because -- we'll come back to this right after lunch.

MR. MUSSETTER: No. I think I disagree with you, Madame Chairman. I think that we should continue to work, number one.

MS. KELLY: Oh, no, no. We're going to come back to this subject. We're going to let PG&E talk about some of these numbers, --

MR. MUSSETTER: Well, --

MS. KELLY: -- talk about it over lunch. And we can come back to this issue --

MR. MUSSETTER: We've been only in session here for an

hour --

MS. KELLY: No. We're not going to lunch yet. We're going to the next issue.

MR. MUSSETTER: No. But I disagree with that, too.

MS. KELLY: Okay.

MR. MUSSETTER: I think that this needs to be settled here.

MS. KELLY: Well, we'll settle it after lunch, I think would be the best way and let people have a chance to talk about it.

MR. MUSSETTER: May I address the group on this then for --

MS. KELLY: Sure. All right. Just --

MR. MUSSETTER: I've held my tongue here --

MS. KELLY: Okay.

MR. MUSSETTER: -- long enough.

We already have on the record here that in the behind-the-scenes negotiations that led to AB 1890 that there was no formula agreed upon among the adverse parties as to how you convert a megawatt to a kilowatt hour. That's of record.

And, by the way, as far as PG&E's contention that the

ratepayers are not represented, they never have been. Otherwise we wouldn't have had a piece of legislation like this. And that's nothing new.

I suggest that the Commission, and I strongly am addressing this remark to the Commissioners particularly, but to the Staff of the Commission, that you are going to have to make a judgment here. This is -- the ball is in your court. And that you just simply make an arbitrary ruling, decision that a hundred-percent load factor is appropriate here to maximize the CTC to the irrigation districts, the CTC exemption to the irrigation districts.

I recognize that that's -- maybe you think that's a bold thing to do, or something like that, but you've been in the habit for years now of giving great weight to what PG&E or Edison say, not because there's anything wrong with you, but just because they are such big players, and they're always there. Always there and always doing their homework and always being polite and so on.

But that day is coming to an end, and here's a perfect example of it right here. To me, it does irritate me, too. It angers me to see PG&E attempting to shrink this exemption when it only represents, what did you say, a half of one percent or

something --

MR. GREENWALD: Less than half of one percent.

MR. MUSSETTER: It's -- 110 megawatts, after all, is a minuscule amount of electricity. And here they are trying to cut it down still further by this means. And I'm not talking about engineering. This is just politics and rationing we're talking about here.

MR. HOFFSIS: I'll offer -- I'm sorry. Are you finished?

MR. MUSSETTER: That's fine. That's all I have, yeah.

MR. HOFFSIS: Just from my own point of view, and this doesn't necessarily represent Staff's, one of the difficulties here, I think, is that independent of politics, independent of PG&E's point of view, when some of us read the statutes, trying to look at just a plain-meaning interpretation, which is a phrase I've heard here several times today already, it mentions megawatt. It doesn't mention anything about energy or kilowatt hours or gigawatt hours.

And some of us who work in this field have a fairly clear view of what a megawatt is and what a kilowatt hour is. We speak in terms of demand forecasting and load forecasting, where

we're using megawatts. And those terms have a meaning in and of themselves. It doesn't say average megawatts. It doesn't say gigawatt hours. It says megawatts.

There's kind of an interpretational hurdle that's a little bit difficult for some of us to get past, I think.

MR. MUSSETTER: Well, I said the ball was in your court, didn't I, Jim?

MR. HOFFSIS: You did.

MR. WILLOUGHBY: Tom Willoughby.

Just a very quick comment. I want to refer back to a comment that Jack Walco made, because what I think we have here are legislative policymakers operating at a macro level who decided that we're going to give up a 110-megawatt exemption without really understanding all of the things that you've just mentioned.

But what Jack had said -- and I really agree -- one of the things that I think that the policymakers understood and one of the things they were striving to achieve was a parity in how the megawatts were allocated, so that, however this was going to be sliced, an equal amount of the CTC exemption would go to ag pumping and an equal amount to non-agricultural uses.

And I think -- I don't know whether it's helpful or not, but I hope that Jack and Michael would agree with me that that was the objective, I think, that they were trying to achieve, that the benefits of -- this exemption be divided so that the benefits were roughly equal to the ag and the non-ag sectors. I'm not sure, again, how you do that.

MR. GREENWALD: Yeah, but your proposal doesn't capture that. If you have an irrigation district with a non-ag customer, let's say 10 megawatts and an 80-percent load factor, what you're saying is you have to have -- and let's assume there's only one non-ag customer and one ag customer, and each gets 10 megawatts -- what you're saying is that if that non-ag customer has an 80-percent load factor, nobody gets any exemption unless that ag customers has an 80-percent load factor, too. And that's fundamentally unfair. And all it's going to do is mean nobody gets the exemption.

What I'm saying is you look at that non-ag customer with an 80-percent load factor, and you say, "It's eight megawatts or so many kilowatt hours." And then you look at the 10-megawatt ag customer. And if this Commission, the ag customer, the irrigation district believe that a 30-percent load factor for that ag

customer is the same thing as the 80-percent load factor for the non-ag customer, that exemption should be allowed. There's no problem with it. It is equal, because the ag customer is getting everything it wants. The non-ag customer is getting everything it wants. That's equality.

And the exemption will be allowed to be made -- to be used, as opposed to what you guys are insisting upon, is come up with these mechanical, unreal tests whose sole purposes or sole -- maybe not even sole purpose, but the sole impact will be that both the non-ag customer and the ag customer will be denied the benefit of the exemption.

MR. BOCCADORO: And keep in mind that the --

MS. KELLY: Let's definitely move forward now.

MR. BOCCADORO: Well, and just keep -- one last point -- keep in mind that the ag load is going to fluctuate from year to year, depending upon the weather conditions, as well. Maybe 30 percent one year, maybe 50 or 60 percent the next. And I think that --

MR. RATLIFF: And what's the implication of that, that you --

MR. BOCCADORO: Well, I think it gets to the point he's

making, is you're never going to have it exactly equal. And if we're striving for that, we're just going to preclude it from occurring. And that's not the intent.

I think Tom's correct, that the Legislature wanted to make sure that this didn't just go to a bunch of big industrial customers, that it went, you know, to the farmers, is what it really got down to.

MR. WILLOUGHBY: And the devil's in the detail. How do you --

MR. BOCCADORO: To agricultural. Absolutely, absolutely.

MR. MANHEIM: Well, one way we can return to what the intent was was the 125 million, which hopefully we'll have a report on --

MS. KELLY: You'll have that after lunch. And then we can just think about this some more. And then we'll just try to see if we have any consensus on this and pick this right up after lunch.

But we're not going to lunch, Bob, so we're just going on to the next issue. All right?

MR. MUSSETTER: Good.

MS. KELLY: Okay. No. 5: What definition of load that is used to power pumps for agricultural purposes should be used for the purposes of evaluating allocation applications.

This is another issue, what is load -- or what is "agricultural purposes," I think, is the keyword here. And we've had a lot of discussion about this, as well.

I mean I think of agricultural pumping in a very narrow, just right off the top, it's farmers out there pumping water in their fields. And I have been educated over the last couple of months that that has a much broader meaning.

And would somebody like to give their interpretation.
Bob?

MR. MOUNT: Yeah. Bob Mount again with Fresno Irrigation District.

I'd like to point out that within our District we do have cooling loads for ag products. We're talking about refrigeration. And that is an -- and pumping load, it's for ag-related processing or just cold storage of fruit and other ag products. And it really ought to be considered, whether or not that falls under this definition. And my personal interpretation is that it probably does.

MS. KELLY: Okay. So that's cold storage and cooling associated with it.

MR. MOUNT: Yeah. Water pumping for ag processing, you know, vegetable washing.

MS. KELLY: Okay. So that's actually --

MR. MOUNT: And refrigeration. The -- what is it -- the ammonia, ammonia, pumping.

MS. KELLY: Okay. All right. So you're talking about ag processing as well?

MR. MOUNT: That's correct.

MS. KELLY: Okay. Yes, Chris.

MR. MAYER: Chris Mayer for Modesto Irrigation District.

We also believe that since the statute said agricultural -- pumping for agricultural purposes, that that's a fairly broad activity. And so, in addition to the cold storage, where you're pumping ammonia or freon, you also have a lot of agricultural systems that use hydraulic pumps as their drives.

And I've tried to be real careful because, as I've read a lot of the material on this, I've seen a lot of people default to the automatic assumption that it's water pumping only. And I

don't think that was the intention, or it would have been in here that way.

So water pumping obviously is included. But any time you have a pump pumping anything, whether it's a slurry of partially solid products, or if it's a refrigeration system, or a hydraulic system, we feel that should be included.

MR. MANHEIM: PG&E's view is that, one, you have to be an agricultural customer. And for us that means -- and, I'm sorry, this is Bill Manheim again -- means you need to be on one of our agricultural tariffs.

And, two, you need to be pumping water.

MR. MOUNT: I'd like to respond to that. Bob Mount again with Fresno Irrigation District.

It's my understanding that those tariffs automatically eliminate some users just based on their usage or their level of usage and not whether or not they're an ag user.

MS. KELLY: Could you explain that?

MR. MOUNT: Well, I believe beyond a certain point you're not eligible for ag rates depending on your usage. If you're a significant power user and you're in an ag-processing business, you're not eligible for the ag. They put you off into

another tariff rate.

MR. BOCCADORO: And if you adopted PG&E's standard what you would, in effect, do that Bill just suggested, is have a difference between Edison's territory and PG&E's territory as it relates, because Edison and PG&E's definition of what an agricultural customer is differs greatly.

MR. MOUNT: Yeah.

MR. BOCCADORO: And it involves processing customers.

PG&E, if you are further processing, *i.e.*, changing the form of the product in any way, you are no longer an agricultural customer. In Edison's territory you still are an ag customer.

MR. MOUNT: Yeah.

MR. BOCCADORO: And cold storage falls into that category as well.

So what Bill's suggesting is going to create two different policies, one for Edison, one for PG&E. And I don't think that's in the interests of this Commission.

I would agree that if it's an ag purposes, that that's the true definition you have to go with here. You can't rely on the ag tariffs versus -- because they're different between the two utilities on this very issue.

MR. MOUNT: I wouldn't have any problem with PG&E's interpretation if we used the irrigation district's rate schedule rather than PG&E's.

MS. KELLY: Okay. Yes, sir.

MR. GREENWALD: Steve Greenwald again. And I'll be quick this time.

Again I think that the definition of ag load should be as broad as reasonably plausible and should not be allowed, this Commission should not allow the utilities to manipulate and restrict the definition in a way that limits the availability of the overall exemption.

I think what we've heard is that in some areas, like Oakdale, they may not have enough agricultural load under some definitions to support a non-agricultural load. I think that's not the intention of the statute.

I think that the unavailability of agricultural load was not intended to be a limitation on the availability of the exemptions. So what we need is a broad definition of agricultural load.

MR. BOCCADORO: And class characteristics -- Michael Boccadoro again on behalf of AECA -- class characteristics are

going to go away. I mean one of the big problems I think we have in agriculture, Karen, and you and I have talked about it over the years, is that I've got fully-integrated clients that are both production ag and processing ag. And they're on so many different rate schedules across so many different categories of PG&E's industrial, commercial or agricultural loads, those are all going by the wayside as we move into a competitive environment.

That ag customer is going to be able to aggregate of his loads together irrespective of be they on an ag tariff or a commercial tariff or an industrial tariff in the future. And I think that's a real important thing to take into consideration here as well. And, again, that goes against what Bill has suggested that it be strictly limited to ag tariffs. We're moving away from that in the future.

MR. RATLIFF: Do you have some idea of what the limits -- I mean everyone is saying define it broadly, but no one is saying what's reasonable.

MR. BOCCADORO: Well, I think the Legislature was looking at it broadly, if I recall. I mean it was to make sure that some of the benefits flowed through to ag and didn't go to a bunch of big industrial customers, I think was kind of the intent

of the Legislature.

And I think that would argue for a fairly broad interpretation.

Do you remember, Jack, or -- I mean I think that's where the Legislature was -- they wanted to make sure the farmers were getting some benefit here.

MR. MEITH: Well, can we get some for instances?

MR. BOCCADORO: Some what?

MR. MEITH: For instances.

MS. KELLY: Yeah.

MR. MEITH: You mentioned processing. Are you referring to canneries, for example?

MS. MILLS: Packing sheds, for instance.

MR. BOCCADORO: Okay.

MR. RATLIFF: What?

MS. KELLY: Packing sheds.

MR. BOCCADORO: Packing sheds.

MS. MILLS: Packing. That is on one of the --

MR. RATLIFF: Packing sheds.

MR. MOUNT: Packing sheds would be a good example.

MR. RATLIFF: How do they -- how do they use --

MR. MOUNT: I'd like to throw out another instance of

--

MR. BOCCADORO: Refrigeration would be a good example. Washing.

MR. MOUNT: -- ag pumping, and that's for processing waste water for recycling for ag use, also ought to be included in this provision.

I think to the extent that we're serving two important needs of the community, which is to provide low-cost water for ag users and to recycle waste water, I think that that really is included in this definition for ag pumping.

MS. KELLY: Could you give me an example? You said that it was in PG&E, after the load, if you're doing one process, but if the load gets too high it is converted to another tariff? So the same process, if a load was lower --

MR. MOUNT: I'm not sure what the limitations are, but I have talked with several people in our area who are interested in being irrigation district power users, power user customers. And they've indicated to me that they are not eligible for ag rates under PG&E's tariffs simply because of their power usage, not because of what they're doing, not because of the process that

they're using, but simply because they have risen beyond a certain amount of electric usage.

So it's an artificial designation. They call them commercial users rather than ag users.

MS. KELLY: Can anybody explain that to me, because what I think I'm hearing, which would be really confusing for us, is if you had a process that we would say is acceptable under the definition, but if the magnitude of the process got bigger, you know, and it would be exempt because it's not under agricultural tariffs?

MR. MANHEIM: I'm not --

MR. MOUNT: For instance, and I don't know if there's anybody here that can speak to that, and I'm just going to give you an example, and I'm sure the numbers for incorrect, but if we have a 10-megawatt load, for instance, would be an eligible ag user. If you go beyond 15 megawatts or something, you'd have to go into another tariff with another rate.

MS. KELLY: Even if you were still --

MR. MOUNT: Yeah.

MR. BOCCADORO: And in following that, Michael Boccadoro again, I think this just gets -- don't get too hung up

on these tariffs, because that's going to be --

MS. KELLY: Right. I'm trying to understand --

MR. BOCCADORO: -- that's going to be a problematic thing because of these inconsistencies both between service territories and maybe within -- I'm not familiar with this either. And at PG&E I know they're all shaking their heads. I'm not sure they know the answer either, but --

MR. MOUNT: Yeah. The IOUs are probably all different and they --

MR. BOCCADORO: Let's not get too hung up on that. And let's look at the general, you know, this is an ag purpose, I think is the way to proceed.

MR. MANHEIM: Bill Manheim for PG&E.

There is no limit on our agricultural tariffs. Some customers find it an advantage, if they're big enough, to switch to E20T, for example, because that is a lower --

MS. KELLY: What is that?

MR. MANHEIM: That's a transmission rate. So you can get a -- it's an industrial rate available if you can take service directly at a transmission level.

So some agricultural customers may decide that's a

better tariff for them than the agricultural tariffs. So they've decided not to take -- do that any more. But there is no megawatt cap that I'm aware of or we're aware at this table, that suggests if you have an agricultural purposes you don't qualify for an agricultural tariff.

Some agricultural customers have found ways to move on to industrial tariffs, to take advantage of perceived advantages.

MS. KELLY: But under your proposal that would present a problem because you have people who have -- who are agricultural or agricultural in their process or whatever, --

MR. MANHEIM: Right.

MS. KELLY: -- and if they chose to take another tariff, this industrial tariff, under your definition they would be excluded, --

MR. MANHEIM: No --

MS. KELLY: -- and with the broad definition they would be included?

MR. MANHEIM: Let me just qualify it then, our proposal.

MS. KELLY: Okay.

MR. MANHEIM: If you are eligible to take service under

our ag tariffs, you are qualified. So does that help?

MS. KELLY: Yes, it helps me.

MR. RATLIFF: Could I also ask: Didn't you say in your definition that it would be only for pumping water, the load?

MR. MANHEIM: That's our view of the legislation, yes.

MR. RATLIFF: What is that actually based on? Is that based on your agricultural tariff or is it based on just what you consider to be common sense, or what?

MR. MANHEIM: As a general matter in our agricultural tariffs, pumping load is described as -- and I'm sorry, hopefully Dennis can correct any misstatements that I make, but I'll give you my overall view, and he can correct the inaccuracies.

But pumping load is one of the qualifications for being able to take service under an agricultural tariff, and that refers to water pumping. We're not aware of any other type of pumping, such as waste pumping or freon pumping as being recognized anywhere as an attribute of service. So water pumping is something that's recognized under the tariffs.

In order to qualify for an agricultural tariff, one of the ways to get it is to do water pumping --

MR. RATLIFF: Would you agree that water pumping would

be included, for instance, for food processing and things like that?

MR. MANHEIM: I'm sorry. I don't know enough about it to answer. Maybe we can caucus at lunch and come back with an answer.

MR. WALCO: This is Jack Walco for Modesto.

One of the things I think the conferees took into account was we don't want, as an unfortunate end by-product as it were, not to use Mr. Mount's example, but an unfortunate by-product to be more encouraging farmers to switch to pumping just so that within a district we can meet the 50-percent requirement. And that was not the intention.

As we've gone through in the state, the definition of agricultural purposes continues to expand as the nature of the industry mutates. So I think we've got to be careful not to adopt PG&E's narrow definition, because I think it gets us at cross-purposes with other public policy aims that the Legislature has put into place, specifically trying to manage our groundwater resources better.

And there are going to be some districts that are gravity delivery, gravity flow. And this would be a definite

impediment to them.

MS. KELLY: Sorry. This gentleman was first.

MR. ZACKY: Richard Zacky with Zacky Farms.

You're talking about tariffs. I'm not sure if it's a current tariff or a tariff I was under with PG&E, but it was an electric rate for a fee bill. And it was over 500 KW, and they said I had to be a commercial rate, not an agricultural rate due to my load. I'm not sure if that current rate is in effect today. But that was PG&E's interpretation. By load and not by classification.

MR. RATLIFF: Michael, you mentioned a minute ago that SCE's tariff for agricultural differed or was more broad. In what respects; do you know the particulars?

MR. BOCCADORO: As it relates to food processing. PG&E's is pretty straightforward. If there's any changing form of the commodity, it is no longer ag load. So if you're cutting broccoli, for example, you're changing the form of the product. And that is no longer an agricultural load.

In Edison's territory, that same definition does not apply. And, for example, packing sheds in Edison's territory are an ag load. Packing sheds in PG&E's territory, for the most part,

are not an agricultural load. And further processing --

MR. HONDEVILLE: If it's used for process, cold storage for a cool-down of a product to maintain shelf life before it's passed on, that's still considered to be ag. Long-term cold storage is not. That's considered to be a commercial endeavor, from what I understand of PG&E's rate structure.

MR. BOCCADORO: That's another good one.

MS. KELLY: Could I have your name, please?

MR. HONDEVILLE: Bob Hondeville from TID, Turlock Irrigation District.

MR. BOCCADORO: That's a correct interpretation. That's true.

MR. HOFFSIS: Could I ask Chris, just to get the sort of the breadth of what all we might be talking about here. You mentioned pumping associated with hydraulics? Does that mean like kind of anything that operates a hydraulic motor and pumps hydraulic fluid?

MR. MAYER: Yeah. In an agricultural environment, whether it's on the farm, or farm-related packing, or maybe even processing, many times you'll see large hydraulic motors -- or large hydraulic pumps where a single large motor pressurizes the

hydraulic system. Then the hydraulic system runs conveyors and sorting equipment and so forth. And that is agricultural pumping in the sense that the hydraulic fluid's being pumped, you know, with the primary drive of the motor.

MR. HOFFSIS: And then you mentioned a slurry? What are -- you mentioned a pumping and slurry or something like that?

MR. MAYER: Oh, pumping of slurries. In a lot of food-processing activities, water is used to convey the food product from one stage to the next in the processing.

Like one example is in a cannery, a lot of times things are floated on a water bath to move them from one sorting point to another. And then the waste products are pumped in slurry form to remove them, you know, take them to filters and separate them back into water and solids and so forth.

So if you go into a major agricultural facility or an agricultural processing facility, you'll see pumps all over the place. And they basically, when you add those pumps up, a lot of times it's a major part of the total load of the facility.

Then there will be things that are clearly not pumps, electricity used for direct heating or lighting, something like that. But you'll see a large, large percentage of the actual end

use of electricity within some of these facilities as pumping, not always pumping of pure water from the ground, as the classical image of agricultural pumping. It goes way beyond that.

And we want to make sure that's not lost in this process, this reality that goes on out in the fields and in the processing facilities.

MR. HOFFSIS: Now my question I guess then goes to since there might be -- if we did want to choose to make a broad interpretation of what constitutes pumping in a facility that -- like the one at which you speak where there might be a variety of uses of electricity, some of which are pumping for hydraulic slurry and so on, as a practical matter, can all that be separated out?

How isolated or how well can one determine what the load is, no matter how you measure it, for the pumping purposes of that facility?

MR. MAYER: Well, what we've been planning on doing is to actually survey the facilities and categorize the end uses on the basis of connected horsepower or something like that. And then try to establish, within reasonable limits, how much electricity is used for those purposes rather than for lighting or

heating or some other non-pumping purpose. And it requires some detailed engineering. But that's kind of what we're expecting to have to put together a pretty solid case in this application process. So we've been preparing for that.

MR. MOUNT: Bob Mount again with Fresno Irrigation District.

I agree, that this can either be done with an audit, like was suggested by the previous speaker, or really the default standard that PG&E proposes in their discussion on Issue 5, which is 75-percent of the applicants' identified ag loads is probably an appropriate standard. That could be used as a backdrop.

If an individual wanted to audit that load, because they had a higher load or because they had a higher load or perhaps they only had pumps hooked on to their distribution system, they could determine that more than 75 percent was actually an ag pumping load, that would be appropriate. But this default standard would be acceptable, at least to the Fresno Irrigation District.

MR. RATLIFF: It would be -- using the default that way would be a modification of PG&E actually proposed, though, wouldn't it? I mean it would be using it for what PG&E would not

classify as ag load; is that correct?

MR. MOUNT: Well, I wouldn't have any problem having PG&E audit those loads at their own expense, if they felt that there was something wrong with that 75-percent standard. If they felt that there was some non-pumping load that involved on the irrigation district loads, let them have at it.

I'm suggesting that 75 percent is an easy way to get beyond this point. I think it's a fair and reasonable percentage of the loads in an ag operation versus the lighting and the heating in the other aspects. You know, you've got farmsteads and those sorts of things that aren't ag pumping loads.

MR. RATLIFF: Well, maybe I'm just trying to classify the obvious. But I think what you mean, though, is 75 percent of PG&E considers to be non-agricultural load; that is correct?

MR. MOUNT: No. Seventy-five percent of the ag load is pumping purposes. That's what issue -- that's what their response is on Issue 5. So if we have an ag load that's on an ag rate that an --

MR. RATLIFF: Oh, that's on an ag rate. Okay.

MR. MOUNT: -- irrigation district -- 75 percent of that is automatically considered to be a pumping load unless

audited otherwise.

I don't know how the rest of you guys feel, but --

MR. WALCO: Well, we're trying to decide if it'd better to have the Franchise Tax Board or PG&E do it, so we're still debating that.

MR. MANHEIM: Bill Manheim, PG&E.

It really saddens me to say the one thing that Bob Mount really liked about our proposal is something that, after review, we've decided doesn't really make much sense.

[Laughter.]

MR. MANHEIM: And we really were going to withdraw it before Bob --

MR. MOUNT: Bob Mount again. I'm glad to hear that.

MR. MANHEIM: What we determined, when we really looked at it, was that there are some agricultural uses, such as dairies, for example, that have no pumping at all. And -- well, maybe some will have pumping. I don't know. But that --

AUDIENCE MEMBER: We have to tell Bill it's not gravity flow just yet.

[Laughter.]

MR. MUSSETTER: Get him a pair of boots.

MR. MANHEIM: I deserve it. I deserve it. I meant water pumping.

Okay. Well, if there's water pumping, then it's okay. I mean but our -- what we concluded is that because the legislation requires customer-specific plans, that it will be pretty easy, as long as customers are identified, to figure out which customers have pumping load and which ones don't.

It's my understanding that those customers that have mixed uses tend to have multiple accounts. And of those few that do have mixed accounts where pumping load is billed with another usage, our proposal would be to determine what the connected load of those pumps are and use that. So basically the maximum demand of those pumps, we would allocate, you know, back to the 50 percent as the requirement.

So we toyed with just using an audit approach that would go either way. But what we concluded ultimately was that since you have to identify specific customers anyway, we didn't need the 75-percent factor and that it really was something that was susceptible to gaming. So it's best just to actually look at the customers and see how much load they have.

MS. KELLY: Could I ask you, are you on this Issue,

there seems to be, I think, some room for differing opinions here and maybe some room for you to maybe modify your position. I think there is a problem with -- if you have different definitions of agricultural tariffs over different service areas. Those can be a problem.

And because -- and so maybe you could discuss at lunch whether -- it seems that the tariffs are a little too narrow. Could we perhaps have a proposal, since you're taking the 75 percent off the table, of perhaps expanding just slightly on those tariffs to maybe, or at least we could talk about getting them consistent with Edison, which interestingly says that they want -- on this subject -- Edison indicates that it wants a narrow definition.

Now -- but maybe "narrow" by Edison's is broad by PG&E, I'm not sure. But I think that something that would be very helpful is if we could come to some kind of at least agreement on definitions that would at least cross some of the service areas. That might be helpful.

MR. MANHEIM: Yeah. We'll -- Bill Manheim. We'll take a look at what Edison does and see if we're willing to -- if theirs is a broader scope, we'll see if we're willing to be

consistent with that.

MS. KELLY: Yes.

MR. MEITH: Jeff Meith. Two things.

When the Legislature wanted to, they did reference pumping water, for example, in the Eastside Power Authority exemption, so I think the fact that they did not mention pumping water, I think that PG&E is being a little too narrow in assuming that has to be water pumping under the 110.

And I know Edison's not here, but I don't think there's any support in the legislation for their statement that the pumping load has to be the irrigation district's own load. That isn't supported, to my knowledge. I don't even know if any other party has even suggested it except Edison, but we would certainly disagree with that.

It has to be the district's own --

MR. BOCCADORO: And I think on its --

MR. MEITH: -- I mean the district's own facilities. I think that's what I inferred from Edison's, and I would strongly disagree with that.

MR. BOCCADORO: And I think that flies in the face of the whole concept of retail power, because that wouldn't be

considered retail.

MR. MEITH: Right.

MR. BOCCADORO: That's a -- or, excuse me, that is a retail transaction. We're talking about wholesale transactions here occurring. The irrigation district getting into the wholesale business and retailing power. Their own loads don't constitute retail.

MS. KELLY: What I was referring to is just the broader definitions.

MR. BOCCADORO: Yeah.

MS. KELLY: If they could expand.

MR. MANHEIM: And can I just clarify one aspect of what we'll take back to consider? And that is if you are eligible for agricultural tariffs, as defined by Edison, then to the extent you're pumping -- you have a pumping end-use for agricultural purposes, then the portion of load serving the pumps would qualify for the 50-percent factor.

Is that kind of the proposal on the table?

MR. BOCCADORO: In part.

MS. KELLY: No?

MR. BOCCADORO: I don't know that there's a specific

proposal. I think the point being that --

MS. KELLY: Well, he's -- I think he's maybe trying to --

MR. BOCCADORO: I'm not sure it's going to be that clean, either, Bill, I guess is the point. Because I'm not sure exactly of all of these things which I think clearly should be considered as ag pumping, looked at, are going to fall within Edison's definition either. So I'm not prepared to make agricultural --

MS. KELLY: Well, let's start there.

MR. BOCCADORO: Yeah.

MS. KELLY: That's a good place to start.

MR. BOCCADORO: Sure.

MS. KELLY: Let's just start there, because -- yes.

MR. MUSSETTER: May I suggest? I suggest that you throw out the old tariffs of both Edison and PG&E and start over. Disregard all that.

One of the benefits that will flow out of this deregulation is that PG&E will have to move its headquarters out into a more rural countryside atmosphere. And they may actually occasionally get out to a dairy or something once in a while.

What do we need to do? And I am not prepared right now, but you need to divide this between on-farm agricultural pumping and off-farm. It's not hard to say that a tomato-processing plant is an agricultural purpose. The pumps that are in there are being used for agricultural purposes. Maybe to you that's a broad definition. It isn't to me. That just comes right out of the language in this bill.

And the same thing would go for other kinds of plants that are processing foods, you know, agricultural products.

MS. KELLY: Well, that's -- I think packaging sheds and things like that. We're moving away from that narrow definition, so --

MR. MUSSETTER: Right. I'm --

MS. KELLY: -- let's see what's in the Edison ones.

MR. MUSSETTER: I'm just saying I think the Commission would be well advised to view that definition broadly, --

MS. KELLY: Yes.

MR. MUSSETTER: -- to make a broad definition, to cover all these things that these fellows have come up with who have practical experience.

MS. KELLY: Okay. Well, we're looking to broaden this,

okay?

MR. MUSSETTER: Okay.

MS. KELLY: And so maybe get --

MR. MUSSETTER: All right.

MS. KELLY: -- some proposals that broaden it a little bit, that we --

MR. MUSSETTER: Yes.

MS. KELLY: -- can all possibly agree on. Okay?

MR. MUSSETTER: Fine.

MS. KELLY: Okay. I think -- well, it's one o'clock. Maybe this is a good time to take a very short break.

[Comments off the record regarding lunch.]

MS. KELLY: Let's really try to keep it to a half an hour so we can get out of here at a reasonable time. And we'll see you back at one o'clock [sic].

[Luncheon recess taken from 1:00 to 1:55 p.m.]

MS. KELLY: I think one side of the table here is not back, but I think we'll go ahead anyway.

Why don't we just take care of unfinished business from the first session. PG&E was going to comment back to us about the \$125 million and how that was calculated.

I think we're interested in whether it was calculated based on megawatts or gigawatt hours. That's, I think, the question that I'm very curious to understand. And were you able to get some resolution on that?

MR. MANHEIM: Yes. Bill Manheim, PG&E.

We spoke with Tom Bardorf [phonetic], who was also one of the negotiators who, actually I think, had the conversation with Mr. Boccadoro about that figure, and actually went through and recounted whether it was the 125 on the exemptions were at this level. And, you know, going back and forth. And I think we were unable to reconstruct the entire conversation.

The important bottom line is that the numbers Mr. Bardorf was relying on, when he was representing those numbers, were supplied by Mr. Keane, on my right. And Mr. Keane developed those numbers using megawatts and a non-coincident peak measure, that same proposal that we're proposing today.

What we propose to do to just satisfy Mr. Boccadoro's concerns is you and -- and actually -- I'm sorry, I've forgotten your name --

MR. WALCO: Bill Manheim, PG&E.

[Laughter.]

MR. WALCO: Jack Walco.

MR. MANHEIM: -- and Tom Bardorf should probably talk and recount the conversation just to make sure that they're in agreement. But we can track that number down.

And then what we've thought about was providing a work paper, that --

MS. KELLY: Okay.

MR. MANHEIM: -- can show how we did it and the basis of the calculation.

The 125, just for purposes of clarity, for the record, is not the amount dollar for dollar represented by the 110-megawatt irrigation district exemption. It's a different number --

MR. BOCCADORO: Well, that was the number for all three provisions as it related to PG&E service territory, as I recall.

MR. MANHEIM: Okay.

MR. BOCCADORO: Is that different than what Tom said?

MR. MANHEIM: No. But I think the best thing to do is for the three of you to get in the room together and then agree. Then there will be a number that will be allocated just to the 110 megawatts. And then we'll provide the work paper to take that

number and show how it came out.

And I think that will hopefully kind of close the loop on this.

MS. KELLY: And you'll file that paper with us in docket?

And everybody here understands that when they file these paper in docket, that you can call docket and you can receive copies of these papers. I just want everybody to understand that.

MR. WILLOUGHBY: Just so Michael understands what we're talking about, I think the thing that Tom Bardorf has reference to is a conversation that I know I was involved in where this generic irrigation district exemption was at the 150-megawatt level and it was going to have to be reduced. And the question was how much to reduce it and what reducing it from 150 to 110 would mean, and what kind of a dollar figure could be attached to that reduction.

And I recall that we sat there and watched Tom Bardorf make the calculation. And the question is what was the basis of those calculations. And I think that's what we're offering to try to reconstruct.

MR. HOFFSIS: And for the nonlawyers of us then, assuming that that computation does get reconstructed adequately

and demonstrates that you did, indeed, rely on peak megawatts or average megawatts or whatever, does that constitute an indication of legislative intent then, or what exactly is the wording --

MR. GREENWALD: That's a very good question. No, it doesn't -- it's nothing.

MR. WILLOUGHBY: I think you have to give it whatever weight you think it deserves. What we'll be able to do is to recount, at least, the dollar basis of the conversation that we had, what we were talking about when we were saying let's -- we have to reduce this 150-megawatt generic exemption down to 110, and what that means in terms of dollars.

And we can demonstrate to you the calculation that was made at that point in time to come up with a dollar amount.

Now, as I say, the weight that you give to that is up to the Commission, I think.

MR. WALCO: Jack Walco, Modesto.

I think that's intended to help answer your question. I think that's what I would suggest, because it'll -- it's a reverse calculation to help you figure out which measurement was used, provided we can all agree on it, so...

MS. KELLY: Okay.

MR. VAN MORNE: I have a comment.

MS. KELLY: Yes.

MR. VAN MORNE: Jeff Van Morne, Henwood Energy. We would just like to suggest a methodology to measure CTC exemptions --

MS. KELLY: I'm sorry. I can't hear you.

MR. VAN MORNE: We'd like to suggest a methodology to measure the CTC exemption that's simple to administer and to monitor, would be that in any hour if there is no CTC liability for a district's actual megawatt load that's not over its CTC exemption. And the portion of the load that would be over the exemption would be subject to the CTC charge in any hour. So that would be a very straightforward simple way.

MS. KELLY: I don't understand that. I'm sorry. You're saying that -- would you repeat that? Does everybody else understand this, and I don't?

MR. HOFFSIS: I didn't.

MR. BOCCADORO: Let me take a whack and --

MR. VAN MORNE: Okay. Why don't you do that?

MR. BOCCADORO: -- you can tell me if I've mis-simplified this.

If X irrigation district is given a 10-megawatt CTC exemption allocation from the Energy Commission, if at any given point in time X irrigation district exceeds 10 megawatts, then a CTC would apply to above and beyond the 10 megawatts. It gets back to metering at that substation.

If they stay consistently at or below the 10 megawatts, there is no CTC applied. It's real simple.

MR. MOUNT: And that's really the easiest way to do that. And I think simplification is really an important thing.

What I've heard today from PG&E today is a lot of complication. And it's just difficult to implement. It's going to be difficult for the Energy Commission to implement. It's going to be difficult for irrigation districts. It's going to be difficult for PG&E.

I mean, in essence, what's going to happen is PG&E is going to have to go out and read our meters in order to do this. And we're going to have to have complicated rules.

I think this whole process can be so much simpler if we just go to the irrigation district's demand meter and determine whether or not we've exceeded the allocation exemption. And if we have, the irrigation district pays the exemption or the charge and

then allocates that charge to its users or to those loads that are non-exempt.

And I really think that's something that the irrigation districts need to administer, not PG&E or IOUs.

MR. RATLIFF: How does this work if you don't know who the consumer is? I mean if you can't identify the consumer, how are you going to know whether you've exceeded the allocation or not?

MR. MUSSETTER: Meter at the substation.

MR. BOCCADORO: Meter at the substation, absolutely.

MR. MOUNT: Yeah. You know, the irrigation district is going to have loads that's an ag load and it's an ag-pumping load. And it's going to have -- it's going to have its non-load. I mean that's part of the whole process. That's why we're going through the plans that we're going to be submitting to you in January that you're going to be able -- you're going to be allocating the exemptions based on those plans.

You're going to have the option to audit our customers and our loads subsequent to that. So --

MR. RATLIFF: Well, everything about this gets -- and this may be just some problem I'm having, but every time we

discuss this I get confused because I don't understand how you do this, just in a real practical manner how it happens if you don't know who the consumer is. And I know I'm getting ahead of us on the Agenda here, but --

MR. MOUNT: Why do you need to know who the consumer is, whether they're an ag-pumping load or not?

MR. BOCCADORO: The ultimate retail consumer is.

It's all going to flow through the irrigation district, which is a wholesale provider.

MR. MOUNT: The irrigation district is going to be paying PG&E for power. The irrigation district is going to be allocating those exemption credits to its users. And if it spreads them evenly amongst all its users, why not. Spread the benefit to all.

I think PG&E's preference would be to go out and identify each of my customers that are eligible for an exemption credit. And if they're not using power that day, well, they don't get the credit and nobody else does either.

I'm proposing that we read it at the irrigation district's meter and that benefit be allocated to all parties.

MR. BOCCADORO: And this is a real important point

because -- Mike Boccadoro -- because it maintains consistency. One of the other exemptions is fluctuations in load that -- the utilities are not going to be allowed to charge CTC on an agricultural customer based upon their connected horsepower in a given year if that customer doesn't use any electricity in that year. That's in the legislation as well. And this is consistent with that same policy.

MR. MOUNT: Yeah. We're a conjunctive-use district. And that's an important thing --

MS. KELLY: What is "conjunctive-use"?

MR. MOUNT: "Conjunctive-use" means that when we have surface water, we use surface water; when we don't have surface water, we pump.

And that means when we're in surplus years we recharge the underground. And we cycle that water through. And there are some years that very few of our people pump. And there are some years when they pump a lot. We've just recently gone through a seven-year drought. There were years that we had one and a half months of surface water delivery.

There are some irrigation districts here today that probably got no irrigation deliveries during those years, and all

of their pumping -- all of their irrigation was through pumping.

Now, in essence, what's going to happen, if you use PG&E's interpretation, is you're going to limit the ability of the irrigation districts to provide power, especially when you've got ag pumpers that are going to be limited. You know, they want to just limit it to two or three, say, for instance, two or three growers.

What I want to do is I want to limit it to however many I can serve with that instantaneous megawatt allocation that's provided for under AB 1890.

MS. KELLY: Well, this sort of goes to the next part of the Agenda. We could actually just skip Issue 6 and go right to 7 because this is under that discussion, what information should be used. And I think this is part of the discussion of identifying customers, et cetera. Can we just go to the next item rather and just pick up this issue of customers, because it's been my understanding that the customers of this allocation -- well, just this is my understanding at this time -- that the customers would have to be identified.

And when I -- if we go to just Issue 7. I provided this to you as you came in. And this was my first draft of if I had to

do one of your plans, after reading the legislation, what would I include in the plan. And this is just mine.

So one of the issues that comes up right away is that it was my understanding that this exemption would not go to the irrigation district, it would go to the customer.

Am I wrong? Can I get some --

MR. MOUNT: I think you're correct. But what I'm suggesting is it goes through the customer through the irrigation district so that these credits can be spread amongst all of the people instead of just a very selected group of people.

You know, what I'm saying is we've got an average pump load factor, perhaps 10 to 20 percent. And I think I've mentioned that earlier today. That means that any one grower is only pumping one to two months out of the year.

What I'm suggesting is I can put, say, five growers on and feed them in succession and meet that megawatt load and share that out, share that power -- that exemption out amongst all the growers and not just limit it to that one grower because he's got, you know, a certain load requirement at a very low load factor.

MS. KELLY: PG&E, your interpretation?

MR. MANHEIM: I guess I'd just like to clarify how

measurement would work under our proposal, because I think it really is much simpler than anything else I've heard today.

It's a one-time process that happens during the allocation process. Under our process, the irrigation district in its application would identify customers.

MS. KELLY: Customers.

MR. MANHEIM: And the way of measuring under our approach would be that customer's maximum demand. And I think we had proposed maximum demand over the last year. Perhaps it's more appropriate to do some type of averaging. I don't think -- you know, we stake out a real strong position on that.

So for each customer then, you know what their maximum demand is and you allocate then megawatts exempted to that maximum demand.

Once a customer has had an allocation of exemption equal to its maximum demand, it operates CTC free for the remainder of the period. You don't have to track its load. You don't have to track anything.

The same thing applies for the 50-percent limitation. We would measure that based -- agricultural pumping limitation -- we would measure that based on its metered demand, maximum metered

demand, if we have that data. If we don't, we'd use connected generation, the maximum demand at the pump, the maximum capability of the pump.

You would then apply the megawatt exemption to those numbers on a one-time basis to satisfy the 50 percent.

Then once you've made your allocations and you're satisfied that the 50-percent requirement's been done, however those plants operate for the rest of the period, it doesn't matter, they remain CTC free for the entire period. So it's a one-time process. It's very simple to do.

MS. KELLY: Any comments about that?

MR. ROBBINS: Yeah. My name is Ken Robbins, and I represent Merced Irrigation District.

While this hearing might not generally apply to us and at the risk of being on the record with a couple of those issues, I think it's important that we take some of what's been said here in context.

It will be a very difficult thing to do, contrary to what's been stated, for us to identify customers, as I think it would be very difficult for any of the other irrigation districts to identify customers to PG&E before we know whether they're CTC

qualified or what the CTC usage would be.

What will happen is essentially we identify those customers and they will be counter-offered by PG&E in a competitive arena, which will put us at a disadvantage.

It doesn't seem to me that that furthers the intent of the Legislature. The Legislature intended this to broaden competition and not to narrow it down.

PG&E here today has suggested a couple of things. First, they suggested that the irrigation districts were granted CTC exemptions. Merced opposed that position. Our position has always been that we were exempt from CTCs. And what the Legislature did in this legislation was to give PG&E the right to recover that exemption from other customers. That's not something given to us; something we've we already had.

So it seems to me that the policy -- when you look at trying to interpret what the Legislature did here, you have to look at the policy behind this. To give it the broadest possible effect so that you can interpret these definitions as broadly as possible, as favorable to the irrigation districts as you can, because that was, in fact, the intention of the Legislature. That's why the Legislature passed this piece of legislation.

It seems to me that if you start talking about using peak loads and you start talking about identifying customers and you start reducing the ability of the irrigation districts to serve load, you begin reducing competition, not increasing it. It will have the general effect of obviating the intent here.

PG&E's not here today looking to protect the consumer. They're going to pass -- the CTCs will be paid for by other customers. They're here today and at this general proceedings, at least as we view it, to prevent as many of us from getting into the electrical business, to keep our loads as low as possible for as long as possible to affect competition.

And I think that's really the issue here. So when you interpret this statute, you've got to keep in mind the policy reasons that were behind it and give life to the terms in light of the policy and not in light of the technical interpretation.

MR. BOCCADORO: Well, and I think he raises a real good point that I'd like to follow up on. And that is if you were expecting the irrigation districts to identify very specific customers and then hold them to those very specific customers, once the allocations are granted on that basis, he's absolutely correct.

PG&E's going to go and approach these customers and try and give them a deal. Edison will do the same thing to try and win them back. That's part of the new competitive environment.

So if you hold them to those specific customers, PG&E can come back in and argue at some point that they no longer -- their proposal is no longer valid because this customer is no longer part of their proposal.

Many of these districts may identify loads well above the megawatts that they actually seek as part of the allocation. They may identify 20 megawatts in loads that they may possibly serve and only ask for a 10-megawatt allocation recognizing that some of these are going to fall away on the natural.

And so you can't hamstring them in that way because you will be, I think it's correctly stated, leaning this well to PG&E's favor in making sure that no one ever takes advantage of this 110 megawatts.

MR. HOFFSIS: Now if you think PG&E is going to then compete and win that customer back, for them to serve that customer, doesn't that mean that they either then charge that customer a CTC or their shareholders eat it?

MR. BOCCADORO: No. What they may do is offer that

customer a reduced rate, which has a CTC in it. And the ultimate result is their other customers end up picking up a larger share of the Critic, much like as they would if they went to --

MR. KEANE: No, Michael. Our rates are frozen. You know that.

MR. BOCCADORO: What's that?

MR. KEANE: And there's no cost shifting.

MR. BOCCADORO: Your rates are frozen, but you -- are you telling me you're not going to propose additional rate reductions for customers? Your rates are frozen both ways? So you're not --

MR. KEANE: If we do propose any additional rate reduction, I think the Commission has been very clear that it's a shareholder reduction.

MR. BOCCADORO: Okay.

MR. GREENWALD: There's an infinite number of ways PG&E, from a marketing perspective, can go out and do exactly what you're saying. You folks are very creative. And even with -- a rate freeze is not a barrier to that creativity. You can discount today; you can discount in the future. You're going to be a long-term player, and you can use your financial leverage to do

exactly what the irrigation districts are fearing.

MR. WILLOUGHBY: This is Tom Willoughby for the record.

But let me come at Michael's point from a slightly different direction. I'm not certain that I heard anybody on the PG&E side of the table say that before anything happens that we have to have a list of customers that the irrigation districts are proposing to sign up and have to be CTC exemption.

I think at the end of the day, when the irrigation district does go out and sign up a PG&E customer, because after all the CTCs are transition costs, stranded costs that would otherwise be paid by PG&E customers. So we're talking about people who are now PG&E customers who are going to switch to an irrigation district and which people will not be obligated to pay the CTCs.

So I think all we're saying is at the end of the day, you know, once the irrigation district gets the allocation and they go out to John Jones or Jane Doe and they sign that person up as a customer and say, "Okay. You know you're part of the CTC exemption," PG&E has to know about that because they have to know that Farmer Jones has been allocated his CTC exemption and doesn't -- can take electric service from irrigation district X, and has no obligation to pay the PG&E CTC.

MR. BOCCADORO: I agree. It may not be as clearcut, Tom. As you know, many ag customers, Farmer Jones may have multiple accounts. It may not be all his accounts that are ultimately served by an irrigation district. And so it may not be as clearcut as a customer.

But I think the point came back to, the point that Linda raised saying identifying specific customers who would be given the CTC exemption, I'm just cautioning not to be that rigid because they may change in the course of the proposal. They may identify many loads, and those loads may change. I'm just arguing flexibility.

MR. WALCO: Jack Walco on behalf of Modesto.

Again this may be a bit of a cultural anomaly because irrigation districts were set up to function on behalf of those people to whom they're providing services, historically farmers. But as years have progressed it's become a much more integrated kind of service area.

And I think just to take off on Mr. Robbins' excellent points, it's important to keep in mind the Legislature when framing this. And I think our discussions among all the parties, including PG&E, was to recognize that we have memorialized in

statute for many, many years in this state the ability for irrigation districts to operate both within and without their service area.

And so in trying to come up with a package that made some policy sense, we did have to acknowledge in some way, through the statute, that that authority existed. And so one way of getting at that was through the CTC exemption.

And as you look at the subsection, particularly sub (C) of 374, it's intended to give the irrigation districts full range of motion and flexibility in determining how the CTC exemption, should that district receive it, be allocated among its users.

And to try and break that firewall, to borrow a term that's used elsewhere in this bill, for that purposes I think would be injurious to trying to carry out the intention here preserving the integrity of the irrigation districts under prior and existing law.

MR. WILLOUGHBY: Which (C) are you talking about, Jim?

MR. WALCO: 374.

MS. KELLY: There's two (C)s.

MR. WALCO: 374 --

MR. WILLOUGHBY: Subdivision (C) is really --

MR. WALCO: -- (a)(1)(C).

MR. WILLOUGHBY: The U.C. Davis section, but you mean (a)(1)(C)?

MR. WALCO: (a)(1)(C), yeah.

MR. WILLOUGHBY: (a)(1)(C). I'm sorry I thought you meant it's just C.

MR. WALCO: No, no, no. Not C, (a)(1)(C).

MR. WILLOUGHBY: (a)(1)(C). Okay. Thanks.

MR. RATLIFF: Could you just kind of address Tom's point? It seemed to make sense to me that at some point -- well, at a very near point, PG&E has to know who is getting the allocation so they know who not to charge; isn't that right? I mean --

MR. WALCO: But does that need to be provided up front? I suspect that if we provided it at all it could be after the fact.

MR. BOCCADORO: Absolutely. It's something that could be --

MR. RATLIFF: When is it provided?

MR. BOCCADORO: What's that?

MR. RATLIFF: When is it provided?

MR. BOCCADORO: It can't be provided up front because we won't know until they're actually hooked up. It could change during --

MR. MANHEIM: Bill Manheim for PG&E. We don't take the position that you have to notify us in advance who your customers are. But ultimately when you get your exemption --

MR. BOCCADORO: Absolutely.

MR. MANHEIM: -- they need to be attached to specific customers. So that way we can tell when you've used up your exemption and we know which customers are now CTC free.

MR. BOCCADORO: It has to be attached to specific loads, not necessarily specific customers. Those loads are going to belong to a customer, right.

MR. WILLOUGHBY: Right. It's the customer that ultimately gets the exemption. And you have to be able to trace it back to that customer.

MS. KELLY: Yes. And this gentleman right here afterwards, right back there.

MR. TRUDEAU: Jim Trudeau, Power Providers. A somewhat technical point that was mentioned and sort of lost about five minutes ago in our conversation was one of megawatt, or for most

of the farmers, going to be kilowatt allocation.

And the point that was raised by Bob and a number of others, that PG&E sort of went right passed, was that a kilowatt is not a kilowatt is not a kilowatt in terms of to have a farmer who's pumping, say, a hundred horsepower load in the summertime, using that allocation during July or something.

But I may have another farmer who's maybe doing some sort of pumping in June or January or whatever. The bottom line is the fact that somebody uses that little bit of an allocation at one point in time does not negate its use, its shared use, at another time in the year.

And the point that Bob I think made really well was that by allowing that shared use, not coincident, and that's important -- I think PG&E's point of if I had two growers using the same 100-horsepower load, you know, benefit at the same time, that's 200 horsepowers' worth at one time, coincident. But if they've got it timed diversified, in other words, different months, different seasons, different crops, and I think the irrigation districts are more than smart enough to know their customers and what crops are growing and how you manage that, that benefit that the legislation has identified could be shared among many more

taxpayers in the state with no change really in the megawatt allocation.

And I think that's -- what PG&E's point is is to say no, you've identified that for that farmer in July. That locked it. We're not going to let you, the guy, in August or December or some other time use it. I locked it at one time, and that benefit can't be shared.

And I think it's an important, a critically important philosophical distinction. We're not arguing -- my personal view is I'm not arguing what a kilowatt or a megawatt is in this case, but I am arguing when you apply it in terms of time. That's critical, and to who.

MS. KELLY: The gentleman back there.

MR. KRAUSE: I'm Garith Krause with the Merced Irrigation District.

I want to go back to the notification issue for just a moment. PG&E has made a filing to the California Public Utilities Commission requesting a very onerous notification process with respect to departing customers subject to the CTC exemption.

And it requires a 30-day advance notice of the transfer of the load to PG&E and some review time for them to come back and

tell you whether or not they're going to allow you to take that load for CTC exemption.

So it's somewhat disingenuous for PG&E to say they're not interested in pre-notification when they've already filed that. We've objected strenuously to CTC on that notification procedure because it basically puts the fox in charge of the hen.

MR. MANHEIM: What we don't require advance notice of -- and, I'm sorry, Bill Manheim, PG&E -- what we don't require advance notice of who you -- of the customers you're identifying in your application. However, once an allocation is granted to an irrigation district, our position is those megawatts need to be identified to customers.

And, yes, it's true that under our departing load -- departing customer procedure that we've proposed to the CPUC as part of our CTC implementation application, any customer that discontinues utility service from us will need to provide 30-days' advance notice.

Then if the customer is exempt from CTC, they would put that in their notice, and we would send them a confirmation 20 days later saying we agree you are exempt. You do not owe us a CTC.

But that procedure is not in place. Only for the irrigation districts. It applies to all departing customers.

But -- if I could just finish. So what that suggests is the irrigation district gets its exemptions, identifies them to customers -- I think that's something that should happen fairly soon after the exemptions are awarded -- then the customer notifies us that they're leaving. We confirm that this is actually a customer to which an exemption has been attached. The process is done. I don't think it's that onerous or outrageous.

If for timing reasons this creates some kind of inconsistency, such that a customer's not able to enjoy its full exemption, we'll look at ways for the irrigation district process of revising that so the customer will get the full benefit of what it's entitled to.

MS. KELLY: Yes.

MR. KRAUSE: Garith Krause, Merced Irrigation District.

We don't necessarily disagree that some notification process might be appropriate. But we think that an organization such as the CEC might be a better forum for that notification process to be developed and implemented.

And I think we so indicated that in our filing to the

CPUC.

MR. MOUNT: Yeah. Bob Mount for Fresno Irrigation District.

And I don't think that PG&E should be the one of approving or disapproving CTC exemptions. I think that ought to also be done through the Energy Commission.

MS. KELLY: Well, I don't think they're going to approve or disapprove it. I think they're just going to sort of verify it.

MR. RATLIFF: Well, they have an accounting issue, I think.

MS. KELLY: Yeah.

MR. RATLIFF: But let me understand. With PG&E, are you suggesting then you don't -- you agree, it sounds like, that you don't have to identify the recipient prior to the allocation. That can occur, and we can go ahead and make the allocation. Then after that, the identification is going to have to occur for your bookkeeping purposes.

MR. MANHEIM: Right.

MR. RATLIFF: But the district can receive an allocation without having it tied to a specific customer.

MR. MANHEIM: Yes.

MR. RATLIFF: Is that right?

MR. MANHEIM: I think there's a viability issue for the Commission to consider. Your standard for awarding an exemption is is this a viable plan.

You'll need to determine if there really are customers signed on with this irrigation district, and whether that's done under seal or through some other process. PG&E doesn't need to see that list. But you'll need to develop some standards, in my opinion, to assure yourselves that it's a viable plan, there really are customers attached with those -- with those irrigation applications, or potential customers.

MR. HOFFSIS: Yes. That's the real dilemma for us. I -- I think --

MR. MANHEIM: Right. That's not our issue.

MR. HOFFSIS: If none of you, when you make your applications, identify any customers whatsoever, and say you can't, then doesn't that put us in a bit of a bind as to on what basis -- or on what basis would you propose that we make a decision or an evaluation of which of your applications is more viable than the other.

Doesn't it really kind of hamstring us if there's a paucity of the precision with which you can give us any information?

MS. KELLY: Has anybody had a chance to look at this proposal, which is just a proposal of information that might be included? Maybe we could just go through that and --

MR. RATLIFF: Could we -- I want to follow up. I think, before we leave this point, I want to see --

MS. KELLY: We're not going to leave it because we're going to go here and look at it.

MR. RATLIFF: Oh, okay. I was just going to pick on Modesto. I mean did Modesto, since it sounds like you're already in the process of preparing your applications and have laid some groundwork on it already, were you going to actually indicate to us who your customers were, at least that there were customers for these allocations?

MR. MAYER: Our intention was not to do that. We've already had one bad experience where it became known to PG&E that we were negotiating with a customer. And even though the customer is served by distribution facilities, PG&E switched that customer to the transmission rate. And so the customer's interest in doing

business with us went down.

So our intent would be to set up a plan of service for a community, identify realistically the presence of the agricultural pumping load within that area, and then hopefully receive the exemption.

The first thing the customer's going to ask us, when we approach him, is: Do you have an exemption available for me to use. And that will determine in a lot of cases whether the customer will go with us or stay with PG&E.

So, you know, until we can tell that customer, yes, we have an allocation, we could apply it to your account, then they make a commitment to us, then we could provide that data to PG&E at the time of the actual transfer.

MR. RATLIFF: So are you saying that you really can't get the customer until you get the allocation; is that what you're saying?

MR. MAYER: Well, you know, although the amount of the CTC is still being debated, it's large enough, at least within its upper limit, that it makes a substantial difference whether a customer would switch or not.

So the exemptions are going to be critical, I think, in

most cases whether a customer will switch during the five-year period.

MR. HOFFSIS: Now if that customer chooses to remain with PG&E, though, then there is an allocation that is -- or a benefit that conceivably is just lost or unused or maybe for that year, at least. And our task is to allocate these so they are best used, or whatever --

MS. KELLY: Most viable.

MR. HOFFSIS: -- best ensures its usage within the allocation period.

Now we want to, in order to carry out that mandate, I think, be in the best position we possibly can be to evaluate who is going to be able to best use that.

MR. BOCCADORO: Is there a problem, Chris, providing them under seal so that they wouldn't be available to anyone but the Energy Commission for purposes of -- or at least what your options are. You may provide them with loads in double what you're asking for in terms of an allocation, that is provided under seal so that they could at least review the viability?

MR. MAYER: I think one of the issues is at the time your making the allocations, or at least the way this works from a

practical standpoint, because facilities have to be constructed, we have proposed in a number of cases to serve an entire community. And then the community grants us permission to serve.

Then we need to construct facilities within that community to have, because the bill requires either owned or leased facilities. Then as your facilities are complete, you can approach the customers in the area of those facilities and offer them electric service. And then they have the choice of either taking it or not taking it.

Until you actually get out there, it's very hard. I mean we're serving not only agricultural and industrial, but we're proposing to serve residential, commercial customers. In some communities there maybe three or four thousand customers. And they would have an individual choice at the time that service is offered.

But to provide -- I guess we could -- basically if we could get it from PG&E, a list of all their customers in the community, and submit them all to the Commission under seal as potential customers, but I don't know if that would accomplish the purpose.

I think, if the purpose is credibility, I think any of

the districts that apply can demonstrate that in terms of their financing capability, their construction, engineering capability, their plans and so forth. And once you put the power in front of the customer with a better rate and better reliability, the outcome is usually pretty predictable.

MR. MUSSETTER: That's the key right there.

MR. GREENWALD: Steve Greenwald. Just a question.

Assuming a customer need not be identified up front, you've raised the question how do you assess the viability. It would seem to me perhaps what you might do is have a requirement of, once you give the irrigation district an exemption, a 30-, 60-day period to come in and somehow prove up that it's done it. And if it hasn't done it in that period of time, that is it hasn't gone to contract with a customer or customers, it loses it. And that might solve the problem.

As long as -- and you do make a good point. This Commission should not give exemptions that are not going to be used. But I'm not sure you have to have a seller and a customer prove up a hundred percent before you make the allocation. I think you can make the allocation on some --

MR. BOCCADORO: Condition.

MR. GREENWALD: -- some condition, some showing of bona fides. And then have a grace period to prove up. And if they don't prove up, go to the next guy.

MR. RATLIFF: Well, I shudder to think of an allocation, though, where we're going to give it and then have to have sort of evidentiary hearings on whether we can take it back again and then reallocate it another time to someone else.

MR. GREENWALD: Well, no, no. The only condition is you have to have a contract with a customer. And that seems pretty straightforward.

MR. BOCCADORO: Yeah, I don't know that you need to go to an evidentiary hearing.

MR. WILLOUGHBY: This is Tom Willoughby.

You may be just be talking about a viability of some kind of a plan, because bear in mind that some of these allocations won't be able to be used until year four or year five. So you may not know in year one who you would be offering, to whom you would be offering an allocation in year four.

You may have a pretty good idea that this is an area that's growing and developing, or this is an area that has a agricultural in it and there will be some ag customers in here in

year four that we would like to approach. But again it goes to what's a viable plan. And I don't really know if there's a simple answer to what a viable plan is. But the allocation, as I understand it, will be made now because I know -- I hope Michael will recall this.

I think one of the things Michael wanted for his clients, when all of this was under discussion, was an allocation made at the front end of the process so they would know how much they had for the next five years, even though they might not be able to use portions of that until a few years down the road.

MR. GREENWALD: But it may be that --

MR. BOCCADORO: That's kind of Issue 6, right?

MS. KELLY: Please state your name since it's going to be really difficult for her to -- sorry.

MR. GREENWALD: Steve Greenwald.

Tom, I understand what you're saying, and if what I said make sense, that after-the-fact prove-up, it may just have to be a staged after-the-fact thing. I think that would accommodate what you're talking about.

MS. KELLY: Well, the reason I made this list up is if I -- I can see where a lot of these plans, especially further out,

are going to be really vague. And if somebody is going to have to make a decision about which plan is viable, and they have five plans that all say we plan to serve X megawatts of load in this place, in this year, and that's all the information we get, it's going to be very difficult to distinguish viability between the different people.

So just as a first cut, when I said I assumed that if there were customers that could be identified and we could, you know, I'd have to ask Dick here, but I guess we could keep that confidential.

But if somebody was willing to, say, identify a customer right up front, well, you know, that would be a real viable option. Or where they had an MOU or some type of commitment upon the customer.

So what we need to look for is, instead of a lot of vague proposals, we need to have as much specific information given to us to help us decide which of these proposals are viable.

So I did start out with this list. And I don't know, maybe we can just look through it. And I'd like suggestions from other people, if you have any suggestions about what additional information could be, should be, would be included that would help

distinguish and provide additional information that we could determine the viability of these projects.

And I started out with the obvious, the names and the boundaries, which we've already discussed. And also identify distribution facilities.

Now I know if the distribution facilities are not in place at the time, information with regard to -- well, as I said, engineering proposals or any type of information that will show us that there is a commitment beyond just saying we want to build these facilities, we'd like to build these facilities.

If there was any other evidence or information that would allow us to show a higher degree of commitment, perhaps, or something to that effect, that's what I was looking for when I put these requirements for distribution facilities. Because that is a basic requirement, that the load be served by the distribution facilities.

Then moving on down, when I thought of the load, well, this is where I get into your customers, you know. I think Identify the total load. Well, that's fine. That'll be easy.

And then the first thing I think is the agricultural pumping. That would be a barrier to receiving exemptions. So

that would be the next thing in these applications that would be identified or could be identified.

And then along that line I go right to specific customers. If you're going to identify agricultural load, I would want you to identify specific customers. If over -- you couldn't at first. That's possible. You can just say general.

But if somebody were to give the Commission the specific customers and you were weighing plans, you could understand where that would give us some way of determining whether these are viable or just hopes for the future. So customers came to my mind immediately.

I could see where four, five years down the road, people might not know who their customers were, but would indicate that there would be a group of customers, they had talked to these customers, whatever. Any help out there.

You know, I'm trying to think of the type of specific information that could be provided to help us assess viability.

MR. WALCO: Jack Walco with MID.

We're on the horns of a dilemma here because at one point it's where the horse is relative to the cart because we can only go so far, as we've indicated already, until we know where we

stand relative to the exemption. Because the CTC hurdle in some cases, particularly the higher end, can be a significant one to overcome.

And as Chris mentioned, with some of the plans that MID has -- is pursuing rather, it's going to be more of a community kind of thing. And so to specify every block in which a potential residential customer combined with what its agricultural load is going to look like may be a very daunting task that no one's up to.

And it may be, you know, we're left to describe to you in the most viable terms possible our target market, what we've got in place in terms of any discussions with city councils or boards of supervisors or special district boards, whatever the case may be, and it's all contingent, at least to some degree, on some positive action by the Commission in reviewing the application.

Absent any positive action, the application may just go up in smoke. And that has been -- you know, that's one of the difficulties of moving down this new path.

MR. HOFFSIS: Can we turn this around a minute then, and since -- I presume you've given some thoughts that you're

intending to submit an application and given some thoughts to what it might contain. Are you willing to right now just give us kind of an outline of what you anticipated putting in this application?

MR. MAYER: Yes, definitely. I think what Linda has captured here up through -- or to the suggestion to list specific customers were all things that we were planning, if there was not a format identified, we were going to include in our application.

Some of the resource data and the specific power supply contracts towards the back end, we had not anticipated that that would be in the application. But if it's a necessary part, we would do our best to cover it, because if you're taking on, you know, a new commitment in terms of load, you hopefully have some plans where the resource is going to come from. However, --

MS. KELLY: Right. That was my point on that. Yeah, this is the way we could just assess whether, you know, these plans are viable. If you are going to have additional load to serve and you can show some indication of plans, that would be for us, that information that we need to help evaluate each of these plans, it would be important.

MR. MAYER: The other things that we were probably going to put in there was a very detailed explanation of the

financial capability to actually pay for the facilities, either in terms of having funds available to do it or if someone were going to go out and borrow some money, I think they would need to have at least gone partway down the road to determine whether funding's available, because conventional financing sources, when you're going in a head-to-head competition like this, there's no real guaranty on the revenue stream. And sometimes it's very difficult to get funding for a project like this.

So an entity that has existing funding available, I think, from a viability standpoint, it may prove a higher level of viability.

And then in terms of the other things we would put in there is who's going to be maintaining the distribution system, the resources available to respond to storms and emergencies, spare parts, material, all the type of things that would prove that the applicant, once they get the customers, can keep the customers by maintaining higher reliability as well as, hopefully, low cost.

MS. KELLY: Okay. So reliability would be another suggestion to be included in here.

And you understand the information on generation or even

new distribution would depend if you were planning to build or to secure that or thinking about that. And the same with contracts.

This information could be general at first and just, you know, saying that you had maybe approached different people, marked tiers, had an RFP, had information from that, all that type of information included in these applications would be useful.

This is not a definitive group of things that should be included. I want to just make it clear, it's just my first thoughts on what might be useful if I had to come up with one of these plans.

And if anybody has any other suggestions I would really appreciate sending those and letting me know about those in writing, if you had any additional comments.

MR. RATLIFF: I really appreciate your forthcomingness.

MS. KELLY: Yes.

MR. RATLIFF: And I thought might take advantage of it further and ask how would you purport to show 50-percent agricultural pumping, for instance?

MR. MAYER: I think the key thing there would be, in defining the area that we would offer service, it would be necessary for us to include enough area that at least within that

area at the existing time is a reasonable amount of agricultural load, a 50-percent type of load.

In other words, if we were applying, for example, for 40 megawatts, which is the maximum, then we need to have credibly 20 megawatts of agricultural pumping load. And so we would have to assure ourselves that between the water pumping and all the other types of pumping that we've talked about, there's a reasonable probability that within that zone that type of load exists. Otherwise, we would configure the application to make sure it did happen, that it was reliable.

Now in the end, this is the new world and the customer is the one who decides whether they stay with PG&E or switch to us or any other irrigation district. So there's no guaranty that even if you start out with your requisite 50-percent ag load in the zone you're going to serve, that you'll get all those customers, or even any of the customers.

But then the way it works is at the end of each year, if you have not proven up, you know, used your exemption to serve customers, then there's a process that basically pulls the exemption back and reallocates it to other applicants. So that's the ultimate test.

If you can't get the customers, like you said in your plan, then the allocation basically flows back to other applicants.

MR. RATLIFF: And how does that --

MR. HOFFSIS: Are you suggesting that if you -- if in year two, or whatever your application is, that you want an exemption for 20 megawatts, 10 megawatts industrial and 10 megawatts pumping, and when we get to that year, the pumping load didn't materialize, you only had five megawatts, but you did have 10 megawatts of the industrial load, we'll get to the -- somewhere in that year. And you come forth and say, well, we overestimated. Here are the pumping loads. So five megawatts of the industrial exemption is pulled back?

MR. MAYER: Well, that's --

MR. HOFFSIS: And passes on to the next year; is that what you're saying?

MR. MAYER: That thought has passed through my mind, because, again, in the legislative process, it wasn't clear what the enforcement mechanism was going to be. Because you can have great plans and put good service out there, but in the new world it's really up to the customer. So you could have a totally

viable plan with every good intention of serving the ag loads, you could build the lines, you could present the service to the customer. And you could be wrong.

And how the enforcement or how the recapture of the allocation would occur is probably an issue that needs to, you know, be on one of your agendas because that's kind of the -- I mean we haven't even gotten to the allocations, but how it could be recaptured is another whole issue.

MS. KELLY: It probably goes up to Issue 6, that we skipped, you know, is it a one-time basis good for five years or should there be a follow-up process to reallocate megawatts. And you could --

MR. MAYER: Yeah. I guess from the standpoint of someone getting ready to spend \$70 million to build facilities, I hope it would be a one-time process, and you would see your schedule for the first five years before you started building your facilities.

Now to the extent that you didn't use your allocation, then I think they're -- you know, each year people who don't use it fully would lose some of it. That should flow back into a reallocation process.

But I think people that turn in a plan that show a five-year build-up, as it increases each year, hopefully you can get your five years allocated so you can make your capital investments, because a lot of these investments probably aren't going to pay off. You know, I mean their paybacks are out beyond five years. So if you only knew you had your exemption and potentially your customers for one or two years, the facilities probably wouldn't get built.

MR. HOFFSIS: But in --

MR. WILLOUGHBY: I'm going to have to disagree slightly with Chris, because I don't think that there's any provision in AB 1890 for a recapture. I agree, and I saw Michael nodding, that I think everyone anticipated that there would be a one-time front-end allocation to districts so the districts would know for the next five years how much their allocation would be.

But the bill then also says that that allocation has to be divided up evenly over those five years. But there was also kind of a default provision that was put in in the event that an irrigation district did not completely use up its allocation in any year. The argument was that the irrigation districts did not want to just lose that allocation.

And so if you look at 374, paragraph -- subdivision (a)(1)(B) I think it's very, very clear that any allocation that is unused at the end of any year is carried over to the succeeding year and added to the allocation for that year.

So it seems to me quite clear that what was tried to be put in place here was a system where you had the allocation at the front end, you realize that in any given year, not the entirety of the allocation might be used, but you don't want to tell the irrigation district, in question, you lose that. But you're telling them you can carry it over to the following year.

Now that does, I think, create the possibility at least that in year five any given irrigation district may end up year five with is some unallocated CTC exemption.

MR. WALCO: Or unused. Unused.

MR. WILLOUGHBY: Or unused, unused CTC exemption. It's been allocated, but they haven't been able, at the end of year five, to find the customer that would use it. I mean that's -- I think that's -- we'd have to, at least I'd have to say, but I think that was just the possibility that that approach results in.

But I don't think there was ever any intent to take back from any irrigation district any allocation. The irrigation

district would continue to have that allocation throughout the duration of the five years.

MR. WALCO: Then there's the sale back to PG&E on the next page, Tom.

MS. KELLY: I think that's Staff's interpretation.

MR. WALCO: The unused allocation.

MR. HOFFSIS: In a given year then, if you had -- if you were granted a 20-megawatt allocation on the assurance that it's 10 megawatts industrial and 10 megawatts pumping, and it turns out the pumping didn't materialize, is that just a 10-megawatt pumping exemption allocation that went unused and it can cascade over to the next year, or was that a 10-megawatt industrial exemption that was overused?

MR. MANHEIM: Bill Manheim, PG&E. I think that we need to find a way to avoid that from happening so that -- the first year's going to be a little rocky because of the timing problems. The allocations are going to happen mid-year. But let's take the second year, for example.

If Modesto, for an example, has a 10-megawatt allocation in year one and it goes to 20 in year two, in year two they would then need to identify to us -- let me back up for a minute.

In year one they identified to us five megawatts of ag load and five megawatts of non-ag load. And let's say all those customers materialized, everything was fine.

In year two then at some point I think before the beginning of the year, they would need to identify to us the next year's customers. And if they didn't present some type of notification that filled out all of the agricultural -- they would have to, in other words.

If they can only identify three megawatts of agricultural, then they would have to reduce their non-agricultural from five to three, so that that 50-percent balance would always be in place. And that's at least what I had in mind. So that's the way you ensure on an annual basis that the 50 percent requirement's always there.

MR. RATLIFF: And if they don't balance, what happens then?

MR. MANHEIM: If they don't balance, then I think the utility would have to say, these don't balance, you'll need to reduce your -- you'll need to identify the customers that you're revoking the claim for until they balance.

MS. KELLY: Then they roll over to the next year, the

remainder? Let's say they only had three pumps pumping and three other. And they had asked for five. They threw it out. Then the two and two roll over to the next year?

MR. MANHEIM: Right. So if it was 10 in the first year, 20 in the third year, they would still get 30 in the third year at this phase then.

MR. WALCO: Well, the question I have for Bill is he uses the term "us" in terms of proving. Are you talking about "us" being the Commission or "us" being PG&E, that we've got to demonstrate to you? I mean to me the demonstration is --

MR. RATLIFF: Well, this is kind of a central problem here is, because the way I had it in my mind is you guys were going to show us --

MR. WALCO: Right, that's what I thought, too.

MR. RATLIFF: -- the 50 percent, but that that was going to be by telling us who's going to get the 50 percent. But now what I'm hearing, and it sounds like everyone's in agreement, you can't do that. You can't tell us who the 50 percent is. You're just going to tell us it's going to go to agricultural, and make some kind of showing, hopefully a detailed one, that that's possible, that's feasible, that that should happen, may happen,

but you don't know who the customers are yet because you don't have the customers yet.

MR. BOCCADORO: As they start to run wires, it's going to become very crystal clear at that point as they hook up the customers.

MR. RATLIFF: But then at some point, though, I mean you're either going to have the customers or you aren't. And that's long after we've already granted the allocation.

And I think what PG&E's suggesting is, well, okay, the law says you've got to have 50-percent agricultural customers, and if you don't have them then you aren't entitled to the CTC exemption.

So my mind's a little boggled by this, but, you know, we're going to give you the allocation. But if you don't have the customers, they're saying, well, we aren't obligated to give you the exemption.

And you guys are going to end up having to go off and fight about it, I guess.

MR. BOCCADORO: Well, no. I think the point Jack was making is that it's the Commission that has to make that determination, not PG&E. If PG&E believes --

MR. RATLIFF: Well, but we made our determination long ago, though.

MR. BOCCADORO: Well, no, no, no.

MR. RATLIFF: At that point.

MR. BOCCADORO: Right. But as the customers get hooked up, if they have -- if PG&E believes that Modesto hasn't reached its three megawatts of ag pumping load to match its three megawatts of industrial load that they plan to serve, they need to notify you and you need to be the arbitrator in that circumstance as to whether or not --

MR. RATLIFF: Oh, you see us as like an ongoing enforcement agency who decides whether the 50 percent's been met then?

MR. BOCCADORO: I don't know that it needs to be an enforcement agency. I think there needs to be a process. I think the point Jack was making is PG&E should not be the "us." The burden shouldn't be on PG&E to decide if they've met it; it should be on the Energy Commission to see to that.

MR. GREENWALD: Yeah. PG&E shouldn't be the judge and jury and prosecutor.

MR. MANHEIM: Bill Manheim, PG&E. Yeah, I agree we

shouldn't be. I think that the Commission should develop a process that eliminates, for PG&E, any discretion.

For example, if Modesto 10 days before the beginning of 1998 is obligated to identify five megawatts of pumping load customers that they'll be serving for the next year and five megawatts of non-pumping customers, they would identify those customers. We would just simply attach the megawatts for those customers to the allocations to make sure, you know, they've used the full five. And that's that.

If their notification, though, doesn't add up to five, it only adds up to three, then we would respond to Modesto, "Well, it only adds up to three. Here's the customer information for those customers you've identified". That means you either need to find two more or you need to reduce your five for the non-pumping load down to three so the 50-percent's rule is matched.

MR. HOFFSIS: Once you've identified the discrepancy, as Mike suggested, he's not looking to us as an enforcement agency, but are you going out come tell us that the terms of their allocation have been violated, and then who does what? We're supposed to do something about it? Does somebody go back to one or more of Modesto's customers and say, "Sorry, you have to ante

up some CTC for PG&E after all"?

MR. MANHEIM: Well, I think it should be done before the fact. That's why I suggested that they provide notice of customers before the actual period kicks in so you don't -- so you can avoid having to go back retroactively to try to take exemptions away.

MR. MUSSETTER: I'd like to take a flyer at it just because I'm really not as much of an electrical person as Chris Mayer is, but I'm really talking to you now, Chris, to ask you if you think this can be made to work, or part of it, anyway.

At the outset these folks have this problem of the allocation. Going to Fresno's proposal, Fresno-Henwood proposal, which seemed attractive to me, that you have metering at the substation merely to ascertain whether the threshold megawatt allocation is met on an hourly basis.

And that to me is the vision here that we should be trying to live within, that is the vision is of the irrigation district as an aggregator and the irrigation district is going to be just a wholesale customer of somebody, maybe it's PG&E or somebody, and then do all the accounting with these customers. And it's really going to have to come back and prove up what it

did, after the fact, to you folks.

I don't think you need to worry very much about whether customers materialize, as long as there's a CTC exemption attached to the pricing that can be offered to that customer, whether it's ag or industrial load. Well, that's going to be the best deal on the market, so that will likely materialize into deals. So that keeps you out of the micromanaging and getting into all these customer identification businesses. I don't think you want to do that.

The only sticker is this ag pumping business. Sure, the law says it's so, unless clean-up legislation can get rid of it. At some point there's going to be a day of reckoning where you're going to have to show, prove that up, and you're going to have to identify it maybe under seal, or whatever, to the Energy Commission, that you did have that much pumping load in the mix.

Now is that a sort of approach to this that there's some flaws in it, or what do you think?

MR. MAYER: Chris Mayer for Modesto Irrigation District.

I think what you suggest works. If you measure it on an aggregate basis, that's probably the way we would rather do it.

Because you're going to have customers coming and going throughout the year, switching --

MR. MUSSETTER: And growing and shrinking.

MR. MAYER: -- back and forth.

MR. MUSSETTER: Yeah.

MR. MAYER: You'll have new customers coming on to your system. For example, if we build out into areas currently served by PG&E, there will be existing customers that have CTC obligations.

We'll be also picking up new customers that are building new facilities that have no CTC obligations, at least based on my current understanding. So, you know, it's going to be a highly dynamic situation.

MR. MUSSETTER: Right.

MR. MAYER: But I think we would be -- the ag pumping, the 50-percent part, we consider that sacred. And we would be prepared to prove that. And if we don't have it, we would be prepared to give it up. But if we gave it up, I wouldn't want it to go away. I would want it to go to some other irrigation district that did have ag pumping.

MR. MUSSETTER: Well, it doesn't.

MR. WILLOUGHBY: Well, I guess I continue to read -- this is Tom Willoughby of PG&E -- I continue to read this that there's a carry-forward. That in any given year -- it says 50 percent of each year's allocation has to be applied to ag pumping. But that's 50 percent of each year's allocation.

If that isn't used, that's a carry-forward, but then you're -- that's an old allocation that's carried forward. Then you're faced in the next year with the new allocation for that year. And 50 percent of that year's has to be used for ag pumping.

So you continue to have -- at least for me, it's conceivable that in any given year, for a variety of circumstances, you may not sign up all the agricultural customers that you had anticipated, but you have a number of megawatts that are reserved for agricultural customers. And to the extent you have not signed up all that you anticipated in year two, you carry over the unused portion into year three, plus you get the year three's allocation for ag pumping. And that carry-over continues to work.

And, as I say, there is the possibility that at the end of the day you might have a couple of megawatts at the end of year

five that, for unforeseen circumstances, have not been used.

MS. MILLS: Tom, and don't you read it that unused portion -- this is Karen Mills for the Farm Bureau -- of ag pumping would be carried over as ag pumping? It wouldn't be carried over in general?

MR. WILLOUGHBY: That's certainly how I would read it.

MS. MILLS: Okay.

MR. WILLOUGHBY: I'll let my lawyers kick me in the shins and correct me, but that's how I would -- if you read the whole section in total, it says that 50 percent of each year's allocation has to be applied to ag pumping. But then it also says that if any load that isn't used gets carried over, I think to me that means that you carry over the ag and the non-ag.

MR. BOCCADORO: Right. Tom, I think I agree -- Michael Boccadoro with AECA -- with that.

The issue comes up what if you have a district, not Modesto, another district, where ag is given a 10-megawatt allocation. And let's say they never show any ability to ever use that. Can that be reallocated? I think absolutely it should be under the statute. And you're going to suggest to me, no, it shouldn't.

MR. WILLOUGHBY: Well, I think that's a fuzzy area. I don't know of any specific provision that says, you know, if you haven't done it, you know, that we can take your allocation back from you.

MR. MANHEIM: Does the irrigation district relinquish it --

MR. GREENWALD: Let me suggest a --

MR. MANHEIM: -- or are you taking it away? That's -- take it away from them or they relinquish it -- relinquishing it, saying, "I'm not going to use it. Somebody else take it"?

MR. MOUNT: Bob Mount from the Fresno Irrigation District.

I think that ought to be the Energy Commission making that decision. And I think it ought to be based on whether or not an irrigation district has evidenced the ability to use that.

And obviously, from PG&E's standpoint, that if unused power isn't allocated, then you don't have to return the exemption credits. And I think your position on this is touched by that motive. I really think that some provision ought to be made for reallocation of exemptions that just possibly can't be used by another irrigation district.

MR. BOCCADORO: Well, and there's another issue that comes up. Michael Boccadoro again. And, let's say, I don't know that this is going to be the case with how many people are sitting in this room, let's say only 90 megawatts of proposals come in in year one. Is there going to be a second year of allocations or are you going to do allocations again six months later?

And I absolutely think the intent of the legislation is that you would.

MS. KELLY: Where does it say that in the legislation? I mean I just see this as a one-time --

MR. WILLOUGHBY: This is Tom Willoughby. I think it says that. And this is part of Michael's, I think, good drafting. I think paragraph (a)(1)(C) says that any portion of the 110 megawatts that remains unallocated. I read that to mean after the CEC goes through its "allocation process," if it only has applications, let's say, for 90 or 100 megawatts, let's say it has applications for a hundred megawatts, it has 10 unallocated megawatts.

Then I think what paragraph (C) says is that you can take that 10 unallocated megawatts and allocate them without regard to the 40 megawatt --

MR. RATLIFF: I don't understand, Tom. Allocate them when, to whom and on what basis?

MR. WILLOUGHBY: I beg your pardon?

MR. BOCCADORO: I think it leaves all that open.

MR. WILLOUGHBY: I think it leaves it open. But I think -- I mean the logic --

MR. RATLIFF: We just sort of forget the statute then and just --

MR. BOCCADORO: No, no, no, no. It just leaves it --

MR. RATLIFF: Well, what's the basis, though? We're supposed to take applications and allocate according to those applications. What if people only applied for 50 megawatts?

MR. WILLOUGHBY: For what?

MR. RATLIFF: For 50 megawatts. Are we supposed to then just decide to allocate again on those same separate bases?

MR. WILLOUGHBY: Well, I would read this as saying if people only apply for 50 megawatts, then, you know, there is 60 megawatts that is unallocated. And you could go back to the people who had asked for the 50 and say, "Wouldn't you like a little more?"

MR. RATLIFF: Take more.

MR. BOCCADORO: Put out a little public notice and say, you know, if you didn't have any takers, we'll give you a second round. And if you don't get any applications --

MR. WILLOUGHBY: I'm not sure that that scenario is a realistic one.

MR. BOCCADORO: No.

MR. WILLOUGHBY: I think you're going to be oversubscribed.

MR. MUSSETTER: That's the least of our worries.

MR. MAYER: Chris Mayer with Modesto Irrigation District. One thing that we did talk about is, since we have plans beyond 40 megawatts, that we would apply for 40, which we understand is the maximum in the first round for any one district, and then apply basically a contingency application that would then be --

MR. BOCCADORO: For the rest of the 70.

MR. MAYER: If -- well, you know, I mean for that process Tom just described, if for some strange reason the 110 was not fully utilized.

MR. BOCCADORO: In other words, Modesto is not going to allow that to happen.

MR. RATLIFF: Well, at least we avoid one --

MS. KELLY: Let me just get one thing -- let me ask one question here. Let's say you ask for, or any irrigation district asks for an allocation or two, and then the allocations are totally given out. But one of those irrigation districts does not use their allocation, their plans fall through, they decide this isn't just going to work, and they decide upfront they're not going to use those allocations.

Can the allocation of one irrigation district ever be given to anybody else? It's fully allocated. It isn't a question of you have an under-allocation and some leftover megawatts to be allocated.

MR. BOCCADORO: I think --

MS. KELLY: Do we agree that they can't be given to somebody else?

MR. BOCCADORO: Can't or can?

MS. KELLY: Can't.

MR. BOCCADORO: Can't.

MS. KELLY: You know, once they're given out, they're given --

MR. BOCCADORO: I don't agree with that.

MS. KELLY: If somebody can't use it, --

MR. BOCCADORO: I don't agree with that.

MS. KELLY: -- they can't give it to some other person.

MR. MOUNT: Bob Mount with the Fresno Irrigation District.

I think the Commission really needs to consider the possibility that there are going to be irrigation districts that, for one reason or another, are not going to be able to consummate their plans and will hold on to that exemption, you know, for whatever reason, hoping that financing will come through or a customer will come through or something will happen.

But I think you need to consider the possibility that they may not be able to consummate their plans and that rather than lose those allocations, that you have some sort of standby provision.

And maybe it could be allocated after the fact to irrigation districts that have a larger load. I don't know the best way to handle that, but I think you ought to be prepared for that possibility.

MR. RATLIFF: Well, I think the legislation suggests that we should consider just that, but before we give the

allocations. And that once the allocations are given, they're given. I think it would be very difficult for us to then maintain some kind of police presence and start taking them back and reallocating them.

MR. MOUNT: Would you consider a voluntary relinquishment of those allocations?

MR. RATLIFF: You know, I mean -- what you mean, by contract between two other agencies? I mean --

MR. MOUNT: Well, I'm not suggesting that it be by contract, because I think there'd be a profit motive, and we'd be selling allocations back and forth. But I'm suggesting that if an irrigation district relinquished an allocation back to the Energy Commission for reallocation amongst the eligible irrigation districts.

MR. RATLIFF: Well, I mean --

MR. BOCCADORO: Does PG&E have a problem with that?

MR. RATLIFF: PG&E seems to be nodding their heads about it. And I mean ultimately it seems to me that in these issues of what happens after the allocations are given, that becomes quite important because, in the end, PG&E has to acknowledge those allocations.

MS. MILLS: Excuse me. I think that the reading of Section (1)(B) -- Karen Mills for the Farm Bureau -- envisions that just this type of thing would be happening because it reads that any allocation which remains unused.

And so it's sort of an after-the-fact examination for what's actually been used in any particular period rather than just looking at it prospectively.

MR. RATLIFF: Well, I think we're talking about two different things actually.

MS. KELLY: Yes.

MR. MUSSETTER: Yeah, right.

MS. KELLY: It's a big difference between rolling it over to the same irrigation district as opposed to giving it to another irrigation district.

MS. MILLS: Well, I don't know. I think it sort of does speak to that issue.

MR. BOCCADORO: I agree with Karen. And I think you guys need to be prepared that there may be somebody that doesn't use it. It shouldn't go wasted. That was not the intent of the legislation. That the full 110 megawatts would get allocated. If not all at once in year one, at some later point. And so I would

highly encourage you guys. And if you would like us to get some confirmation from the Legislature that that was their intent, we can do that.

MS. KELLY: Provide some comments to that effect.

MR. MEITH: This is Jeff Meith. You know, hasn't the Legislature given you that in the last sentence of subsection (C)? They say you have the discretion to allocate the load in a manner that best ensures its usage.

I mean if you would interpret that as not giving you the power to look at what you've allocated to make sure it's been used, I mean I would say you're not accepting the discretion they've given you.

MR. RATLIFF: I read -- I focus on the word "allocate," not to, you know, and to continue by police presence to make sure that they're used.

MR. MEITH: Well, but you can focus on the goal as usage and discretion is granted to the Commission. I interpret that as saying you have the authority to make an allocation subject to truing up correcting, as necessary, if the allocations aren't used.

MR. RATLIFF: If we give an allocation to someone who

doesn't use them then, do you think we would just be able to take it away under that provision?

MR. MEITH: Yes.

MR. RATLIFF: Okay. But we don't to voluntarily relinquish it, we just take it?

MR. BOCCADORO: And I don't think you're going to get opposition.

MR. MEITH: I think that's inherent in the concept of your discretion.

MR. GREENWALD: Right. And I think a condition --

MR. BOCCADORO: Michael Boccadoro. You come up with reasonable -- that this group can agree upon on what constitutes your ability to take it back, reasonable requirements. I don't think you're going to get any opposition, because I think everyone in this group is interested in --

MR. RATLIFF: We may not get any opposition today, but I bet you when we try to take it back from an unwilling district who wants to keep it, I think we would get --

MR. GREENWALD: Steve Greenwald.

MR. BOCCADORO: Get everybody in the room together to agree.

MS. KELLY: Let's speak one at a time, please.

MR. BOCCADORO: It's simple

MS. KELLY: Mr. Greenwald.

MR. GREENWALD: Steve Greenwald. Okay. It certainly seems to me that when you've given an allocation, you can set the ground rules. You can condition giving the allocation to a district on the ground rules on which you can take it away.

And one of the conditions is you don't get the allocation unless you agree to these ground rules. And as Michael said, if this group agrees with you and we develop rules for that, I don't think you have the problem of the irrigation district who hasn't used the exemption saying you can't take it away.

MR. RATLIFF: Well, I go back to (B), I mean. And I think we focused on (B) --

MR. GREENWALD: But let me --

MR. RATLIFF: -- earlier in this legislation. It says any allocation which remains unused rolls over to the following years. If that is the intent for an allocated -- or for unused allocations, then what basis do we have for taking them away?

MR. GREENWALD: Okay. Let me put it another way. Let's take this hypothetical that maybe is a little far-fetched,

maybe not. Let's assume Modesto gets 60 megawatts of exemptions for the next five years. And let's assume in year two Pacific Gas & Electric Company purchases Modesto Irrigation District, their electric distribution facilities, and they merge. What happens to those exemptions?

Are you saying they're dead forever? I don't think so. I hope not.

MR. RATLIFF: Well, what are you saying? What do you think happens to them?

MR. GREENWALD: There should be a process -- the Legislature gave these exemptions to the California customers. In all deference to my friends from irrigation districts here, ultimately the beneficiaries here are customers.

And in the scenario that I've said, I think it's incumbent upon this Commission, and I think you have the authority, the Legislature's given it to you, to make sure that those exemptions flow to customers.

Just because something happened to the upstream, to irrigation districts and they failed, or for whatever reason, I don't think customers in this state should be deprived of the benefit the Legislature intended.

And I think, again, I mean this is one of the few aspects of the legislation that is truly pro-customer. And I think you should do everything to protect it.

MR. WILLOUGHBY: Steve, could I just interject -- Tom Willoughby for PG&E. I think -- I wouldn't disagree with anything you've said, except I do think that there is a pretty clear statutory provision in paragraph (B) that --

MR. RATLIFF: Yes.

MR. WILLOUGHBY: -- gives an individual irrigation district the right to carry forward. Once you've got an allocation, if you haven't used it at the end of any year, you can carry it forward to the following year and the following year and the following year.

And, you know, Michael remembers a discussion of that. And clearly I don't think anybody intends to take that right away from the irrigation district. If --

MR. GREENWALD: Okay. Yeah. No, no, no. What we're talking about --

MR. WILLOUGHBY: If it wants to voluntary -- if the irrigation district says, "God, we've decided -- we've got this allocations, and we can't use them. We want to return them to the

Energy Commission to be reallocated," I don't think PG&E would have any problems with that.

MR. GREENWALD: Okay. But we're getting a little closer. You know, if there's -- and I don't know where we draw the line. But at some point if there is an irrigation district that's out of business or has -- that everybody can agree has zero chance of ever using that allocation, there needs to be a mechanism that says that irrigation district loses the right to deprive everybody else in the state of it for the next five years.

MR. WILLOUGHBY: Well, again, I defer to your legal judgment. But it looks to me like the statute, as written, gives an irrigation district who wants to assert its right to carry forward its allocation, that the statute gives them that right.

MR. MEITH: I disagree. Jeff Meith.

I think that provision applies to the allocation by an IOU service area. That's subpart (B). And I think if you're going to read that consistent with how it was drafted, and again I apologize because I don't know what the intent of the drafters was, but I interpret that provision as saying it applies to the one-fifth that comes in each year and it applies to the IOU service area that's allocated.

It does not mandate that within that IOU area you cannot go back and basically true-up and require a district that has not used it or cannot use it to give it up and allocate it to someone else.

MR. BOCCADORO: I would agree with Jeff. I don't think it requires that. And I'd encourage the Commission to look at ways of taking the fullest advantage of the 110 megawatts you possibly can, and presenting them back to this group and see where the group is.

MR. RATLIFF: If you read it that way, the provision is a nullity. How it could possibly mean then if it is only attached to IOU allocation?

MR. MEITH: In the concept of a 110 -- you have 80 megawatts roughly in a PG&E service area. That comes in at a rate of one-fifth per year. And to the -- whatever that number is -- and to the extent that full amount isn't used up, it can be added to the next year at one-fifth within that IOU service area. It does not say it has to stay with the irrigation district.

MR. RATLIFF: It can only be used if it's allocated. If you assume that it's allocated, it can only be unused after it's been allocated. Someone's got to not use it to roll it over

into the following years.

MR. MEITH: Right.

MR. RATLIFF: I mean I don't know if we want to --

MR. MEITH: So how do you interpret that as saying that whoever didn't use it is entitled to keep it?

MR. RATLIFF: Well, I don't think it can be reasonably interpreted that way. I think if what we're saying here is that if you get an allocation, you don't lose it because you don't use it in the first year. It rolls over.

MR. MEITH: I believe it gives the Commission the discretion if you don't use it and you can't use it. Now I'm not saying you couldn't exercise that discretion and say we're going to leave it with that allocatee. But, if on the other hand, you then determine that they can't use it, I believe you have the discretion to say "We are going to reduce your allocation."

I don't see how you can interpret the authority of the discretion to make sure it gets used in any different way.

MR. RATLIFF: I have a great deal of difficulty seeing how the Energy Commission, on this basis of this statute, plays a continuing role in terms of giving and taking away on an annual basis these allocations. I think that is an extremely liberal

interpretation of our powers under this statute.

MR. BOCCADORO: Let's not get too hung up on this.

Michael Boccadoro. I mean if we want to get this legalistic and this bureaucratic, we can tie this whole 110 megawatts up for the entire five years and then no one's going to benefit. And that's the direction I see this going right now.

And if there are some problems in the language, let's fix them with the clean-up legislation. Let's move forward and let's --

MR. RATLIFF: Keep in mind we've got to have applications by January 31st.

MR. BOCCADORO: I fully understand that. I put that provision in there for the very reason it wouldn't get caught up in bureaucratic delay, and it still seems to be happening.

What I'm suggesting is let's look at these things. And if there's some other things that we're going to have to clean up in this legislation, if we can get some agreement that the irrigation districts can live with, some reasonable ability of the Energy Commission to come back and take away what they've given, let's put it into legislation in the clean-up and resolve it that way. But we're not going to get any way [sic] here arguing over

what the exact wording was, because I can tell you, as one of the drafters, and Tom and Jack, we aren't perfect. He and I aren't even attorneys.

MR. RATLIFF: Well, then maybe that's a good suggestion. If you want the Energy Commission to play a continuing police role in taking away allocations that are unused, I think you need something else than what you've got in this bill.

So, frankly, I don't see it under the current language of the legislation. If you want us to do that, then I think it would be a good idea to go back for it.

I don't think necessarily you'd have to fix that by January 31st.

MR. BOCCADORO: I agree. And that's what I'm suggesting, is let's continue to work on that.

MR. WALCO: I mean I rarely disagree with --

MS. KELLY: Just one more, and then let's move on.

MR. WALCO: Jack Walco with MID. I don't know that we do want the Commission playing an ongoing police role, because I would equate to some degree with the granting of a water right. And if it isn't utilized, then it does roll over and we have -- you know, we have policy in California where if you don't use you

don't necessarily lose it. And I don't know that we want to get back into you give us an allocation and then you take it back, and then we're back to arguing how are we going to get it back again.

I mean it could just be this harangue, and we get back into a clean-up fight. And I don't know if Tom is eager to do that.

I would just as soon that in our proving-up process be in part through our application. And you're going to have to reserve yourselves the ability to audit. And we're just going to have to be able to show that we're doing the best job possible. And the allocation we're not using does, in fact, roll over for use in subsequent years.

And I think if we get into this process we'll have a better idea of what we need to do to tweak it. But I just as soon get on about -- or I agree with Michael. Let's get on about the first year's allocation, and we can worry about the second and third year as we get into the process.

MS. KELLY: Right. Okay. Fine. And --

MR. BOCCADORO: And there may be an easier way to resolve this we can all live with.

MR. WALCO: Yeah.

MR. BOCCADORO: There may be. And if there's not, so be it.

MS. KELLY: And, Michael, if you have some comments you'd like to provide, please file those with us, okay?

MR. BOCCADORO: I agree with Jack.

MS. KELLY: Okay. Just before we go on to the next item there are just two things. One, the gentleman from Henwood, would you file your proposal to us? Could you write that proposal up and just file it to us?

And one other thing, Percy, could you stand up? Is there anybody here from the media. We have a gentleman here who can speak to them. Percy. Yeah. Nobody here? Okay. Good. All right. Then.

Yes.

MR. MANHEIM: Bill Manheim, PG&E. One thing you asked us to do at the lunch break that we wanted to come back and respond about was on the issue of defining agricultural pumping.

And PG&E is willing to use the Edison definition of agricultural customers for purposes of compromise. So, as we understand the proposal, that would be including food processors within the definition. You wouldn't necessarily have to be taking

service under an agricultural tariff, you just would have to be eligible for it.

If you're eligible for it, and you have pumping load, then that portion of your pumping load, the electrical demand of your pumping load would be -- we would be willing to apply to the 50-percent requirement.

MS. KELLY: Anybody have any comments on that? Yes.

MR. TRUDEAU: I have a question. Jim Trudeau of Power Providers. You sort of give two different answers there. First you said, we'll accept this SoCal -- SoCal definition of ag load. Then you said, so if you qualify for PG&E's ag tariff, et cetera, et cetera. That's not -- doesn't naturally blend, guys.

MR. MANHEIM: I misspoke. I should not have said PG&E ag tariff. What I meant is if you qualify for the Edison ag tariff.

MS. KELLY: Any ag tariff probably?

MR. MANHEIM: Yeah.

MS. KELLY: Can we use the word "any ag tariff"?

MR. MANHEIM: I think so.

MS. KELLY: That's the way I wrote it down myself.

MR. MANHEIM: Well, I don't know what's in San Diego's.

Do they have any ag customers? I don't know.

MS. KELLY: All right. So --

MR. MANHEIM: I think we're saying --

MS. KELLY: Edison and PG&E --

MR. MANHEIM: -- comfortable saying Edison or PG&E's.

MS. KELLY: Okay.

MR. MANHEIM: And then is the rest, and you have pumping load. I'm sorry, I didn't mean to --

MR. BOCCADORO: On behalf of the AECA I'm not sure that gets us where we would be coming forward, but we'll look at that and file some comments with the Commission in response to that, because I haven't looked at the Edison tariff in a long time either. And I want to make sure it encompasses every we've envisioned.

MS. KELLY: Okay. Well, we'll all look at it and file comments.

Okay. All right. Let's now move on to Issue No. 8. I think we covered 7. I think everybody's going to look at the suggested information. We've talked about allocation on a one-time basis. And I think we're at Issue No. 8.

And this was brought up just generally by people. And

we're wondering if irrigation districts could in some way join together under a joint power or something in order to aggregate eight megawatts of load. Bob was the one who actually mentioned this to me.

Would you like to discuss this?

MR. MUSSETTER: Yes. That would be useful in our setting. We have the one large irrigation district. Then there's some smaller ones that are contiguous with it. And the smaller ones wouldn't have very much at all in the way of other non-agricultural loads, but they certainly have some pumping loads.

MR. BOCCADORO: Does anyone have a problem with it? I guess that's a good question. I haven't heard anybody who has a problem with allowing them to jointly file. Is there anyone in this room, PG&E, do you have a problem with joint applications, or anyone else? And that may resolve this issue fairly quickly.

MR. MUSSETTER: That would be great.

MR. BOCCADORO: Our position is they should be allowed. Anyone disagree?

MS. KELLY: So even though the literal reading of the legislation says "an irrigation district," which -- remember,

we're just reading the legislation -- and I'll tell you that, you know, right off the bat, I said, oh, just can't do that, because I'm reading the legislation.

And so I'm the one that probably has a problem with it. But you indicate -- and everybody else in this room doesn't have a problem with it.

MR. HANSEN: May I? Doug Hansen, San Diego.

A point of clarification only. You mention contiguous as opposed to non-contiguous. To the extent that they are contiguous, I don't see the problem. If they are not contiguous, I see an administrative potential problem in dealing with the issues involved with billing and the granting of CTCs. So that's my clarification.

If it is contiguous --

MR. MUSSETTER: They are in our case. And so we wouldn't be concerned about that. If that was put on as a constraint, it would be fine.

MS. KELLY: PG&E, on the record, do you have any objection to this?

MR. MANHEIM: Bill Manheim, PG&E. I think generally if they're contiguous they're working the same distribution system.

That, in my mind, that comes very close.

MR. MUSSETTER: Yeah. Be hard for you to probably differentiate between the three.

MR. MANHEIM: Yes. And that comes very close to satisfying the legislation, I think.

MS. KELLY: Oh, well, this is easy. Okay, fine. Okay.

MR. MUSSETTER: Thank you. Let's move on before somebody thinks --

MS. KELLY: Issue 9, yes. Okay. Now these last two, I'm going to just let PG&E talk about these. As I indicated before, these were issues that were brought up by PG&E. And, you know, I'd be glad to read them, but the first one: Should allocated exemptions be applied to specific electric loads, or might they be shared among customers, or otherwise divided up by districts receiving the allocations.

All right. Would you like to -- does anybody have any comments about this particular statement and --

MR. MANHEIM: I think we've already addressed it, when --

MS. KELLY: Well, it's --

MR. MANHEIM: -- we talked about the customer issue, do

you have to identify to a customer. I think it's all -- I mean if we want to rehash those positions, --

MS. KELLY: Well, let me just summarize then. Do we agree that an irrigation district -- the way I understood it, as long as they identify customers to you or a group of exemptions to you, that is all you need to know; is that correct?

MR. BOCCADORO: Can they be shared or can they not be shared?

MS. KELLY: Okay. You know, and let me just give you another example in my mind, because I'm the inexperienced one here. Can you identify customers, a customer to PG&E that will get the exemption, and PG&E -- that will be fine for PG&E. And whether the irrigation district wishes to share those benefits amongst other customers, does it matter to PG&E? Well, --

MR. WILLOUGHBY: What you said doesn't make sense.

MS. KELLY: Well --

MR. BOCCADORO: Yes, it does.

MR. MOUNT: Yes, it does.

MS. KELLY: Yeah.

MR. WILLOUGHBY: If you've identified a customer that receives the exemptions, then that's a customer --

MS. KELLY: Right. And that's the one they say to you, if this is the customer, this is the person we have the exemption for, you're out of the picture. You're all taken care of.

MR. WILLOUGHBY: We're whole.

MS. KELLY: Right.

MR. WILLOUGHBY: We're --

MR. MUSSETTER: Yeah.

MR. WILLOUGHBY: So what is the irrigation district then going to share?

MS. KELLY: Now the irrigation district may decide, have a side-deal with that person, and say, "Well, you know, you have this exemption," --

MR. MOUNT: More than that, an irrigation district may have more than one customer. We may have more customers than a 40-megawatt load. We may have a 60-megawatt load.

MS. KELLY: Right.

MR. MOUNT: And we may wish to share that --

MS. KELLY: That's right.

MR. MOUNT: -- 40-megawatt exemption over that 60-watt (sic) customer load.

MS. KELLY: That's right.

MR. MOUNT: It's going to be very difficult for an irrigation district to decide which one of our customers is going to get the exemption and which is not.

MR. BOCCADORO: And there is nothing --

MR. MOUNT: When we go in and say we're going to provide you with utility service. And they're going to ask, "How much is it going to cost me?"

And I'm going to say, "Well, I don't know. How much are you willing to pay?"

And that's going to decide which guys get the exemption and which guys aren't. The ones that ask are going to get it and the ones that don't aren't.

That's totally unfair --

MS. KELLY: Do you have any objection --

MR. MOUNT: -- and it's uncompetitive.

MR. WILLOUGHBY: The bottom line is, again, that these are, let's for purposes of example, these are all PG&E customers that an irrigation district is trying to entice away, and that's the new world that we live in.

MR. WALCO: Lure.

MR. WILLOUGHBY: Lure. Whatever, whatever, Jack.

But at the end of the day, the CTC obligation is a customer obligation which the legislation makes very, very clear.

So what we're going to want to have at the end of the day is the names of the customers who left us, who do not have any further obligation. There may be other customers --

MR. MOUNT: That's fine.

MR. WILLOUGHBY: -- who leave us and do have an obligation. And we must know who they are so we can collect that obligation from them.

But these exemptions, we're going to have to know who the customers are who leave us for you, and who don't owe us anything more, who are free and clear, whose ledger has been wiped clean.

MR. MOUNT: Well, as long as you're whole do you have a problem with what I've proposed other than -- other than --

MR. WILLOUGHBY: I still don't understand what you propose.

MR. BOCCADORO: The irrigation district, Tom, may assume the customer's responsibility to you for the CTC above their obligation.

MR. MOUNT: Right. In light of the fact that we're

going to be collecting it, we're going to be billing, we're going to be reading the meters, we're going to be the ones that are going to be essentially collecting the CTC for you.

And I guess I'm trying to figure out what the problem is if I collect two-thirds of a CTC from this guy and two-thirds of a CTC from that guy, et cetera, and make you whole on your charge.

MR. BOCCADORO: What they may do is if they may have 80 megawatts load, they identify that to you, 40 of which is eligible for CTC exemption, they're responsible to you for the other 40 percent.

MR. MOUNT: Bob Mount again from FID. You know, really I can appreciate PG&E's standpoint. They want to minimize the load that goes to the irrigation districts and would want to make sure that just the 40-megawatt allocation goes.

But from the power users' standpoint, from the ratepayers' standpoint, I think everybody'd like to get a little piece of this pie. And I don't see reason why not.

I mean we're talking about providing competitive power rates to the users of the state of California, hey, let's sobeit. If it's cost-effective to provide these benefits to half again as many customers as we're being allocated CTCs and it works for

those guys and it's cheaper than going with PG&E, why not? That's what it's all about.

MR. BOCCADORO: Does PG&E --

MS. KELLY: And you have no objection?

MR. WILLOUGHBY: Absolutely we do.

MS. KELLY: Oh, you do now? Okay.

MR. WILLOUGHBY: Absolutely. If I understand what he's saying, we certainly do. They're trying to balloon and inflate 40 into much more than 40.

MR. BOCCADORO: No, Tom. Tom, the exemption is very clear --

MR. MOUNT: No. The exemption credits --

MS. KELLY: It still remains 40.

MR. MOUNT: -- are on the 40 megawatts.

MR. BOCCADORO: The exemption is very clear. And this is the point that Bill made at the Energy Commission that I strongly disagree with, and I even spoke to Tom Bardorf about. There is nothing stopping these irrigation districts from going out tomorrow and lining up two million -- well, maybe not two million -- two thousand megawatts of load. A hundred and ten of it would be subject to the allocation. The rest of it they're

going to have to pay CTC on, but there's nothing stopping them.

This isn't going to allow them to balloon it. What your argument is saying is this a market power issue for PG&E and you don't want to lose customers. That's what you're saying. You're guaranteeing, you're never going to get less than -- you're not going to get compensated for anything less than a 110 megawatts. Everything above that you're going to get compensated for. You're going to be held whole for.

They may chose to spread it. And, realistically, when you've got such small allocations, when you start to break these down, because they've got to be phased in over five years, they may not be able to pick out the 10-megawatt industrial customer in year one. And if they've got two of them lined up, how are they going to tell year one from year two if they make him reach two megawatts?

MR. MOUNT: Bob Mount again from FID. Really we can adjust our rate schedule any way for our customers to essentially do what I'm suggesting, but it just makes everything easier for you, for us and really for PG&E if we just share that, if that's what we want to do.

If we want to allocate it to the various customers,

that's fine. You know, there may be some customers that are going to have expensive transmission facilities. I can foresee that some of the ag pumpers with a small load factor are going to have some high transmission costs.

There are going to be some municipal or commercial accounts that are going to have load transmission cost. And we're probably going to have to adjust who gets what exemption credits just in order to help pay for those costs.

So really, you know, by going along with PG&E's proposal, you're taking the ability for the local irrigation districts to adjust their own rates.

MR. MANHEIM: We're not taking a thing away. Bill Manheim, PG&E. AB 1890 attaches responsibility for CTCs to our customers. If customers are exempt, then they're relieved of that obligation. If customers are not exempt and they depart from utility service, they'll have to pay us a CTC separately.

If irrigation districts want to adjust their ratemaking to spread the benefits of exemptions more broadly, they have the discretion to do that. The way they would do it is for customers that are receiving exemptions, they would charge more. And for customers that are not receiving exemptions and have to pay a CTC

to PG&E, they would charge less.

We are not interfering in any way with the way their ratemaking works. What we are doing is enforcing CTC responsibility, as AB 1890 specifies that. These exemptions under the irrigation district procedure are identified to customers.

For our purposes, for us to be able to attract CTC responsibility, we have to know which customers are no longer responsible for CTC and which customers are.

For those customers that are responsible for CTC, we have to send them bills. For those customers that are not responsible for CTC, we have to track how much that exemption is worth for firewall purposes, so that we can comply with the legislation in that way.

You can't -- they can do indirectly -- they have all the flexibility to do indirectly whatever they want. But what they're basically asking to do is -- this plays into the kilowatt-hours argument, which is -- just allows us to spread these hours as broadly as we want.

MR. MOUNT: That's not true.

MR. MANHEIM: And I don't think we need to rehash all of that.

MR. MOUNT: That's not true, Bill. Bob Mount from FID. What it allows us to do is it allows us to simplify the process for the customers. It allows us one bill to go out -- you know, all of these things that they're talking about can be done internally with the irrigation districts. All of that can be done with billing.

We can identify the customer that's no longer on their line and what their load was, what their current load is, what the CTC exemption is, we collect the CTC exemption, we pay it to PG&E, and it's done. The customer doesn't have to get billed from two utilities. There doesn't have to be all this confusion. PG&E doesn't have to have all this heavy-duty accounting. It simplifies it for the Energy Commission, it simplifies it for PG&E, and it simplifies it for the irrigation district.

MR. RATLIFF: How does PG&E know how -- who doesn't pay the CTC then?

MR. MOUNT: We'll provide that customer. We'll provide the --

MR. RATLIFF: You'll identify the customer?

MR. MOUNT: We'll identify the customer and his previous load and his current use.

MR. WILLOUGHBY: May I ask Bob a couple of questions?
Tom Willoughby from PG&E.

MR. MOUNT: Sure.

MR. WILLOUGHBY: How does this work? Let's say that you've got a district that gets an eight-megawatt exemption. Now how do you somehow allocate that over customers? I mean what we're saying is straightforward. When you sign up a customer, you tell us that this customer gets the exemption for some portion of the eight megawatts. And we say, fine. Forevermore you're exempt. You're now an FID customer. You don't have to pay CTCs to PG&E. Go in peace.

But what are you proposing? What are you going to do that's different from that? I mean very specifically.

MR. MOUNT: What I'm proposing is if I bring on somebody that's a customer of mine --

MR. WILLOUGHBY: You've got an eight-megawatt allocation.

MR. MOUNT: -- and I've got more than -- more than eight megawatts of customers, but I've only got an eight-megawatt allocation. I am going -- I am proposing to actually collect that additional CTC exemption for that portion above and beyond the

eight megawatts from those customers, and to provide that, not only the information, but the money to you.

Rather than having you bill them separately for that, not knowing what our rates are. We're going to have to provide you with our information anyway on our customers and what they're using anyway.

MR. WILLOUGHBY: Let me see if I have this straight. You're proposing to go -- what we're saying basically is if you've got eight megawatts and here's a two-megawatt customer, and you want to sign up the two-megawatt customer, you say, "I can offer you a CTC exemption."

And the customer says, "Fine, I'll come with you." And you've used up two of your megawatts.

What you're proposing is that you take these two megawatts and you divide those -- let's say you have two two-megawatt customers and you want to get both of them. And so you divide those two megawatts among the two customers.

And you say, "Oh, customers number one, I'll give you a one-megawatt CTC exemption. And, customer number two, I'll give you a one-megawatt CTC exemption." So therefore you still have one megawatt on which --

AUDIENCE MEMBER: Two.

MR. WILLOUGHBY: Each customer has one megawatt on which they'll continue to pay --

MR. MOUNT: Right, right.

MR. WILLOUGHBY: -- a CTC exemption. Is that what you're proposing?

MR. MOUNT: That's exactly correct.

MR. WILLOUGHBY: Well, I think that that's clearly not what anybody envisioned. I think that's really kind of lifting yourself by your own bootstraps.

MR. MOUNT: Well, you know, I think --

MR. WILLOUGHBY: I mean that's --

MR. MOUNT: -- the contrary is really anticompetitive.

MR. WILLOUGHBY: Nobody -- and I think I'm going to ask Michael. I mean nobody ever said this is a way for irrigation districts to leverage the amount of CTCs they can so they can sign up more customers, --

MR. MOUNT: We're still talking two megawatts of CTC exemption.

MR. WILLOUGHBY: We're talking about leveraging the CTC exemption so you can sign up more customers. I think this was

very straightforward. It was simple. It was direct. You sign up a customer. That customer's load counts against the CTC exemption.

MR. BOCCADORO: Tom, there may be examples where you can't sign up an entire customer in year one. What if he's a 20-megawatt customer of PG&E, and your allocation in year one for Fresno is 10? How are you going to sign up that customer? Are you telling him he can't sign that customer?

MR. MOUNT: I can only serve him half a load and you're going to serve him the other half?

MR. WILLOUGHBY: Well, I think if you want to sign him up and if you want to say that your district will pay his CTCs for that year until you get your next year's allocation, I don't think anybody would object to that.

MR. BOCCADORO: That's what he is -- that's what he's saying.

MR. MOUNT: That's what I'm talking about in your previous example.

MR. WILLOUGHBY: No. The example I walked you through was we're in this year, year one, you have two two-megawatt customers and you have two megawatts of CTC exemption --

MR. MOUNT: And if I both sign them up, I have to -- they each have to pay that extra exemption.

MR. BOCCADORO: Tom, here's -- let me give you another example, Tom. He's got to two 10-megawatt customers, okay, that he wants to sign up. He has 20 megawatts over five years, four of which he gets each year, okay? Are you telling me in year -- he can't give them each a two-megawatt exemption in year one?

MR. MOUNT: That's what he's telling me.

MR. BOCCADORO: Yeah.

MR. MOUNT: That's what he's telling me.

MR. BOCCADORO: That's what he's telling me. I don't think that's within the intent.

The phase that makes it extremely difficult --

MR. WILLOUGHBY: I'm not sure that I -- I don't think, you know, I'm saying that.

MR. WALCO: If Bob steps up to these two customers and says, "All right. Here's the allocation we get over the five years. Here's the deal. I'll buy out your CTC obligation. In return, you're going to be the beneficiary of the exemption." Meanwhile FID writes you the check. Are you okay with the balance?

MR. MANHEIM: No. But see the problem is that --

MS. KELLY: Please give your name so she can keep track of this.

MR. MANHEIM: Bill Manheim, PG&E. The CTC obligation attaches to the customer. And what that rate will be is depending on two things: What the CTC price is and what the customer's load is.

MR. WALCO: Right.

MR. MANHEIM: So we have to identify CTC exempt status and CTC responsible status to specific customers so we can track their loads for firewall purposes and for billing purposes.

So you can't avoid identifying this customer is exempt, this customer is not exempt. It has to be done or else we can't track for firewall purposes.

MR. MOUNT: And I don't think we're talking -- saying that we're not doing that.

MR. MANHEIM: Then there is not a disagreement.

MR. MOUNT: I think we're --

MR. WALCO: Next item.

MS. KELLY: Okay. Let's -- all right.

MR. BOCCADORO: He may say there's, I don't know, 10

megawatts, only two's going to be exempted in year one, okay? He's got manufacturer X out here who has a 10-megawatt load. In year one, manufacturer X is only going to get a two-megawatt exemption, but he's going to serve their entire 10 megawatts. You're not going to have a problem with that, correct?

MR. WILLOUGHBY: That is correct.

MR. MANHEIM: I think the one --

MS. KELLY: Well, then that's good. Oh, good.

MR. WILLOUGHBY: No, but I think what we do have a problem with -- this is Tom Willoughby -- what I was trying to illustrate in my example is where you have two customers. They each have a two-megawatt load. FID has a two-megawatt exemption.

And I think what we would say in that scenario, you take the two-megawatt exemption and you choose which customer you want to give the exemption to, --

MS. KELLY: He's not agreeing with you on that.

MR. WILLOUGHBY: -- what we would object to is to say, "Well, I'll take this two-megawatt exemption and I'll give one megawatt to each of these customers." So one megawatt of their load will be exempt, one megawatt will not. We violently object to that.

MR. MOUNT: But I can do that by adjusting my rates to my customers. The board of directors can do that. But what is the point in doing that? What is the point in doing that?

MR. WILLOUGHBY: And we're against leveraging.

MR. HOFFSIS: Yes. But you've basically lost that battle. I'm not sure if I were talking about this particular --

MR. WILLOUGHBY: Why have we lost that battle?

MR. MOUNT: There's only one reason --

MR. HOFFSIS: Because you can -- we can -- everybody could agree, okay, we're not going to allow leveraging loads as you allude to it or as you label it, but Bob can just go charge differential rates to those customers and accomplish exactly the same thing.

MR. WILLOUGHBY: Hey, that's okay. Because if he charges differential rates --

MR. HOFFSIS: Well, what's the difference?

MR. WILLOUGHBY: -- then it's the balance of his customers that have to pick that up.

MR. HOFFSIS: But what's the difference?

MR. MOUNT: Then why do you care?

MR. WILLOUGHBY: Because what's -- the leveraging is a

market power issue that gives him a market advantage to entice, or to use Jack's wonderful word, to "lure," it's a siren's song that lets him lure our customers.

MR. HOFFSIS: But agreeing that he can't leverage doesn't accomplish -- doesn't prevent him from leveraging. He's going to leverage anyway.

MR. MANHEIM: If he wants to do it indirectly, that's fine.

MR. WILLOUGHBY: If he wants to do it indirectly, you know, that's fine. But, again, I think it was never the intent to have these allocations be used to leverage.

MR. MOUNT: In your desire to prevent me from leveraging and taking over your customers and trying to anticompetitively forestall, you know, the irrigation district's development of its system, you're not accomplishing your purpose because we're going to do it anyway.

MS. KELLY: Okay. And this gentleman back here.

MR. MOUNT: And in the process you're making it more complicated for the rateusers -- or the ratepayers.

MS. KELLY: Can you add some --

MR. TRUDEAU: The key issue -- I'm Jim Trudeau of Power

Providers.

The key issue here is CTC. It's -- for whatever its goodness or badness, we, the state have agreed that we're going to give PG&E and SoCal and San Diego money for their stranded facilities. In this whole process we're talking about now, as Bob goes out and grabs one, two, three, four, five, six, seven, eight, nine, ten or whatever irrigation grabs a whole bunch of customers, you're going to identify that mostly five of them are CTC exempt and maybe five aren't.

The bottom line is PG&E needs to be compensated for those CTC customers that are not exempt. Fair enough? That's the issue.

What is being done here, and nobody's denying that PG&E should be compensated, you know, that's fair enough, the issue here is whether PG&E would be able to continue to directly get at a customer's pocketbook, which is essentially a punitive, negative market power that would stop the irrigation districts from successfully marketing.

What we have here is not that PG&E will get paid the money. That's been made real clear. PG&E's gaming the accounting system to gain market power to the detriment of the citizens and

ratepayers in the state.

MR. WILLOUGHBY: I think we'd have to say that, in our view, it's the people who are advocating leveraging that are doing the gaming that was never envisioned. I mean leveraging is something that was -- I agree completely with what you say. That under the scenario that has been described, PG&E recovers the CTCs. The question is whether the -- this CTC exemption allocation is going to be used to leverage.

And I think that the PG&E position is, you know, that was never anyone's intent. And we certainly will continue to pursue that point of view. It was never anyone's intent to have the CTC allocations used to leverage.

MR. MOUNT: Well, you know, --

MR. TRUDEAU: It was not the intent of the Public Utilities Commission or the ratepayers in California, that the money that PG&E would earn during the years would then be set aside to set up a competitive entity called Vantis [phonetic] and then go make money someplace else --

MS. KELLY: Okay. All right. Yeah, I think --

MR. TRUDEAU: -- a reasonable use of your leverage in the marketplace. Why deny that same reasonable leverage to the

irrigation districts?

MR. HOFFSIS: Now here is the -- excuse me. One quick example where I think there is a difference and you need to make -- or a decision needs to be made about this leveraging.

Suppose Bob gets a 15-megawatt allocation and signs up two 10-megawatt customers. Now under PG&E's review of the world, I suspect one of those 10-megawatt customers gets a CTC exemption and the remaining five megawatts just goes unused?

MR. MANHEIM: No, that's -- we're not against partial use.

MR. MOUNT: Wait a minute. That's --

MR. HOFFSIS: Then we're all right. Then whether we leverage or not, whether you charge all 20 megawatts fifteen-twentieths of the CTC or --

MR. WILLOUGHBY: Is it 10 of 5 or 7 and a half each, or what are you advocating?

MR. HOFFSIS: I'm advocating that it doesn't -- that leveraging is going to occur one way or another.

MR. MANHEIM: I guess our position is that 10 and 5 in your example makes a lot more sense. We'd like these exemptions to use the fully-exempt customers. So when you take your

exemptions, you say -- and I think this is more of an administrative issue than anything.

I have -- you take your exemptions and you max them out to make as many customers as possible CTC exempt. If you have some left over, then you can have a partial. But it's a lot easier to bill and account for a one partial than it is for hundreds of partials. Because for a partial, what that means for every customer is we need to track every month what their load is, what their exempt load is and what their responsible load is. Send them a bill for the responsible piece.

And it's very administratively burdensome.

MS. KELLY: Bob is volunteering to do that for you.

MR. MANHEIM: Right. So as long as he says "These are the customers that are CTC exempt. And I've allocated them out such that all -- here's my first customer. I've put all my exemptions to him. This was left. I applied it completely to the second customer. I applied it to the third and applied it to the fourth," so that he can give us a block of customers that are exempt, then that solves our concern.

MR. MOUNT: You know, --

MS. KELLY: I don't think there's a resolution here.

MR. MOUNT: Bob Mount again.

It really seems to me the only objection that PG&E has is to people taking more of their customer load than would be allocated under AB 1890.

And I really object to that because, you know, the irrigation districts weren't advantaged by AB 1890. We were disadvantaged by virtue of the fact that we have these CTCs imposed upon us.

You know, these were a new condition that were imposed upon the irrigation districts. Before AB 1890 came, we could go out and get whatever load that we want, and we didn't have to pay CTC exemptions.

We went through this legislative process and agreed to these things so PG&E could have these stranded costs reimbursed to them. And I think for them to start adding additional conditions is totally unreasonable.

MR. WILLOUGHBY: This is Tom Willoughby. I want the record to note that Bob may have made kind of Freudian slip because he said, you know, what PG&E is asking for, you know, for more than was contained in -- or PG&E's objecting because the irrigation districts want more than was contained in AB 1890. And

I just want to underscore that.

Yeah, we are objecting if the irrigation districts are asking for more than was contained in AB 1890. We think they should get exactly what was intended in AB 1890, no more, no less. And to the extent they're asking for more, they're reaching.

MS. KELLY: Okay. Let's move on.

MR. MUSSETTER: Tom, even the 3:00 a.m. language?

MS. KELLY: I think that we've heard different sides here. And we'll take this all under advisement. I did want to bring this up because I knew this was an issue and I didn't think, Tom, that it was solved. So I did want to mention it again. And that's why I gave you the example I did. And now we know everybody's opinion on it.

Okay. Issue No. 10: What is the responsibility of irrigation districts pertaining to ongoing, non-bypassable charges for nuclear decommissioning and public purpose programs and for CTCs owed after the exemptions and in 2001?

Is it everybody's understanding that after 2001 that those customers that have the exemption for the initial five years then there is additional CTCs that carry beyond those five years that have to do with QF contracts, et cetera as well as

decommissioning, that they then would be liable for that share of the CTC that remains after 2001? Is that correct?

MR. WILLOUGHBY: This is Tom Willoughby. Can I respond to that? I think nuclear decommissioning can be set aside pretty quickly because I think there's a very specific provision in the bill. I know that Michael doesn't like this, but look at Section 379.

I mean 379 very clearly says, and that was everyone's intent, that nuclear decommissioning is separate and apart and a distinct charge from CTCs. And 379 says "Nuclear decommissioning costs shall not be part of the costs described in these sections, which are CTCs, but shall be recovered as a non-bypassable charge, a separate charge, until the time as these costs are fully recovered."

I think nuclear decommissioning costs are not and are specifically called out in 379 as not part of the CTCs, but rather a separate, distinct charge that will be paid for until the decommissioning amount, whatever that is, the Nuclear Regulatory Commission will decide, is achieved.

MR. BOCCADORO: Michael Boccadoro on behalf of AECA. I disagree with Tom. I don't think there's any disagreement on it.

It was separated out. I don't think it was separated out in the intent of the Legislature in terms of this exemption.

The clear intent of the Legislature was there would be no exit fee, period, for any of these customers under this 110 megawatt, not during the five-year transition period, not after the five-year.

And if that's not clear enough in the legislation then that needs to be cleaned up, Tom, that the intent --

MR. WILLOUGHBY: I think 379 is pretty explicit. And it was clearly what PG&E intended.

MR. BOCCADORO: Tom, I'm not arguing with you on the explicitness. I'm asking you for your recollection of what the legislation was, in good faith. Did you --

MR. WILLOUGHBY: Well, my good-faith recollection is that nuclear decommissioning costs were a separate charge, separate from CTCs, that everybody was going to pay.

I think the underlying policy rationale is that the -- you know, in the same sense that you had CTCs, that the nuclear decommissioning costs were incurred on behalf of all IOU customers and that therefore all IOU customers should continue to pay the decommissioning costs.

MR. BOCCADORO: Tom, in good faith I don't think that was what anybody recollected. And I'd like to hear what Jack thought in terms of the -- were we getting a full, complete exemption --

MR. WILLOUGHBY: I will say that this was not a huge item of debate. I will grant you that. It was not debated at any great length.

MR. BOCCADORO: Wasn't an issue of debate at all.

MR. WILLOUGHBY: But the issue of whether the nuclear decommissioning costs should be separate from CTCs was debated. And I think that the decision was clearly, yes, nuclear decommissioning is a separate charge and it will not be, from a technical point of view, included in the CTC. And, hence, you have 379.

MR. BOCCADORO: What was the reasoning for the noninclusion of the nuclear decommissioning? Was it a decision that the utilities wanted made for retiring purposes so that you could -- what was the reasoning?

MR. WILLOUGHBY: Well, because nuclear decommissioning is, from a policy point of view, is simply not a stranded cost. It is a --

MR. BOCCADORO: Well, I would argue that worker retraining isn't a stranded cost either, but it was included in the CTC.

MR. WILLOUGHBY: Well, you're correct about that. But I think that's probably not relevant to this discussion. I mean worker retraining was included in the CTC. Nuclear decommissioning was not because it was, I think, considered to be --

MR. BOCCADORO: Was it because you guys didn't want to be at risk for it above and beyond the five-year period? Was that the -- I just don't remember. I'm asking you.

MR. WILLOUGHBY: No. My recollection is, and again, from a policy point of view, nuclear decommissioning costs were costs that were associated with the decision to construct a nuclear power plant, and that the people for whom you were constructing the plant, the current and future customers, should all pay a fair share of the decommissioning. And the decision was it's really not a stranded cost. It's an ongoing cost that we'll have a separate charge for it.

MR. MANHEIM: Can I just have a -- Bill Manheim, PG&E -- just a reality check here.

MS. KELLY: Yeah.

MR. MANHEIM: I don't think it's this Commission's responsibility to decide --

MS. KELLY: Right. I was raising this -- yeah.

MR. MANHEIM: -- this issue.

But there is an important issue, and I'd like to explain why PG&E raised this as Issue No. 10 or 9 or whichever number.

MS. KELLY: Okay. We assumed it was to inform the irrigation districts.

MR. MANHEIM: Right.

MS. KELLY: And it is one thing we don't have to worry about, but unless it --

MR. MANHEIM: Well, no, no. That there is an important issue here, and that is that --

MS. KELLY: For us?

MR. MANHEIM: Yes, for you.

Irrigation districts will be marketing to PG&E customers. They will be saying, "We want to serve you." And they will be making representations about what these exemptions to be granted by the CEC mean. Since this is your program, I think that we have to be careful that irrigation districts are not able to

mislead consumers that they are courting that they will no -- they will never again be responsible for a CTC if they sign up for service, or that they will never be responsible for a nuclear decommissioning charge or a public benefits charge.

So I think there is an important customer protection aspect to your job, because you are involved in the awarding of these exemptions. And I think that it's not something that you can ignore. Because if the irrigation districts go out and say to these customers, "You won't have to pay the charges," and that's how they come forward with a viable application, then when the customers find out they really have to pay the charges, they decide not to go, it undermines your process.

MR. BOCCADORO: Let me translate --

MR. RATLIFF: How would we keep them from doing that, by the way?

MR. BOCCADORO: Let me translate that real quickly for you. This is another issue that PG&E wants to hold open over the heads of these customers, then they leave, so that they confuse them into not leaving.

Bill knows that these nuclear decommissioning costs are not going to be determined. It's an open-ended number. I don't

think it was the intent of the legislation -- wait --

MR. MANHEIM: We know that number today. It's a fixed number.

MR. BOCCADORO: Wait, wait, wait, wait. Let me finish.

I don't think it was the intent of the Legislature that they had any ongoing responsibility to the utility. That's my interpretation. I think Jack agrees with that.

MR. WALCO: I don't know, Michael. Speak for yourself, I don't know. I don't have a judgment.

MR. BOCCADORO: Okay. Well, that's my thought on it. And at least that was our understanding of it. And I was hopeful that PG&E would join with the irrigation districts. I think it needs to be cleaned up. I don't think the legislation is clear. I think it needs to be cleaned up. But I was hoping that PG&E would join with the irrigation districts as part of a clean-up legislation in seeking clarification of that issue and a resolution of that issue.

MR. WILLOUGHBY: Michael, I think the issue -- I think the language is crystal clear. I understand you don't agree with it, but I think that there's no doubt about the costs that are --

MR. BOCCADORO: No. I'm not disagreeing, Tom, with the

language. I'm telling you I agree it needs to be fixed.

And I guess I was hopeful -- my conversation with Tom Bardorf several weeks ago was, "Let's join together and go to the Legislature with a fix to that issue," because I don't think -- at least that was not our intent in making the agreement we made that evening.

MR. WILLOUGHBY: Well, I think my reaction is, you say it needs to be fixed, and I think my reaction is from our point of view, it ain't broke.

MS. KELLY: Okay.

MR. GREENWALD: Can I respond as --

MS. KELLY: All right. Just -- yes, sure.

MR. GREENWALD: Bill has again graciously said that consumers in this state need some regulatory help, because we can't make intelligent decisions. Speaking on behalf of a customer and a PG&E customer, but I guess PG&E distinguishes between customers and ratepayers, but putting that aside, we don't need that help. We're very sophisticated.

When we go out in the free market, if you let us, we can make rational decisions and test what our vendors are selling us. We want that freedom. We don't want this patronizing, "You guys

don't know what you're doing, we -- PG&E -- better help you make a rational choice." Thank you. We don't need that.

We want our freedom to go out and buy.

MR. MANHEIM: Large commercial customers --

MS. KELLY: Okay.

MR. MANHEIM: -- that can make their own informed decisions. I'm not sure the same can be said of residential customers.

MS. KELLY: Okay. Now all the irrigation districts, you do understand -- I wasn't sure whether you understood this or not. And so do all the irrigation districts now at least understand this is an issue and whether we have any responsibility with regard to this I'll discuss with Dick Ratliff. But you do understand PG&E's position with regard to any customers?

MR. WALCO: We understand the position. I think we want to sit down and discuss this further, --

MS. KELLY: Good.

MR. WALCO: -- because we've already got a notice that says the Governor and the Legislature upon the recommendation of PG&E and Edison, --

MS. KELLY: Right. Okay.

MR. WALCO: -- is reserving the right to assess you for nuclear decommissioning costs. And you are hereby on notice.

MS. KELLY: Good.

MR. WALCO: So we've got to do that.

MS. KELLY: Okay. Great. Good. All right. That's all the issues that I have identified.

Are there any other issues that have not been identified and people would like to bring up at this time? Yes, Chris.

MR. MAYER: Chris Mayer from Modesto Irrigation District. The second part of Issue 10, that talks about public purpose programs. Again, I think at least our District understands PG&E's position on this.

But part of the bill is that any municipal entity that is in the electric business, including irrigation districts, has to assess a surcharge on their bill to fund public purpose programs of their own.

And we just want to get it on the record that we don't think customers should have to pay twice for public purpose programs, both to the irrigation districts and also to PG&E.

On the other hand, we respect that PG&E has some valid concerns as far as a capping total dollars that they need to spend

on public purpose programs. So it's also an area that might need some clean up. But, you know, just to make everybody aware of that, that if you are going into the electric business, under the bill, that you're going out have to assess funds for public purpose programs and implement them within each irrigation district.

MS. KELLY: Okay. Fine. Thank you.

MR. WILLOUGHBY: Just for the record. Tom Willoughby. We would agree that it's not appropriate to have customers pay twice for these public purpose programs, and that there should be some clarification of that.

MS. KELLY: Good. Okay. All right. Are there any other issues or comments that people -- I should maybe say "comment."

MR. GREENWALD: I have a question. With respect to Item, I guess, No. 7, the application. In the document that Edison presented, I guess, last week or so, they had some suggestions which we oppose and we set forth in our document.

No one from Edison has been here. You haven't talked about it. Can we safely assume that Edison's suggestions are no longer --

MS. KELLY: Is it the cost-benefit analysis?

MR. GREENWALD: Yes, the cost-benefit analysis. It's no longer on the table.

MS. KELLY: Right.

MR. GREENWALD: And if it is on the table, I'd like to address it.

MR. HOFFSIS: Edison hasn't withdrawn.

MS. KELLY: No.

MR. HOFFSIS: It hasn't withdrawn this, but they're also not here to react to it or to defend it.

MR. GREENWALD: So where do we go?

MS. KELLY: Well, --

MR. RATLIFF: Did you want to say why we shouldn't do that?

MR. GREENWALD: Yeah. I can say, hopefully succinctly, there's -- I don't know what they mean by cost-benefit analysis. What I see what they mean is some type of CPUC reasons review or CPUC certificate process, which we don't need.

Irrigation districts have -- their folks are elected. If the irrigation district makes a bad business decision, they suffer the consequences. If a customer makes a bad business

decision, it suffers the consequences. I don't think this Commission needs to get itself involved in making -- in secondguessing the irrigation district and the customer as to whether or not they made a good business decision.

MR. MUSSETTER: I agree.

MR. GREENWALD: And that seems to be what Edison is requiring.

And the only benefit, again, would be additional cost to the customer, to the irrigation district and delay in opportunities for folks who don't want this to go forward, like perhaps Edison to come in and present testimony.

MR. MUSSETTER: Yeah. Put some tacks in the road.

MS. KELLY: Well, I don't think that the recommendation, just because it is a recommendation, makes it mandatory. These are suggestions for information under the legislation.

The legislation doesn't clearly call for it.

MR. GREENWALD: Right.

MS. KELLY: So it's just my view. And this is just my view that it is a suggestion of some type of way that you might indicate to other people, it's not required, that the viability of

this project is good or bad or whatever. So I can't really address why they put these comments in, but --

MR. GREENWALD: Okay. Well, I mean, my thought, my concern, though, is if you open the door for Edison, they will -- the real purpose, what they want to do is delay this process. There will be an application before you between a willing seller and a willing buyer. And Edison will come in and say, "Wait a minute. Let's have an evidentiary hearing." We don't think this is in the public interest. We don't think this is a good deal for either side.

And I'm suggesting that that approach should not be allowed, --

MR. MUSSETTER: That's right.

MR. GREENWALD: -- because it's a waste of time. It's a waste of money. Nobody benefits expect --

MS. KELLY: I agree. But I can't speak for Edison.

MR. HOFFSIS: I think we can say that others that argue for liberal interpretations of the law, and Edison was trying to abide by that.

MS. KELLY: It's too late for those.

MR. HOFFSIS: I personally speak for myself. I don't

see anything that supports inclusion or requirements, that there's something --

MS. KELLY: Me neither.

MR. HOFFSIS: -- included in the application, then --

MS. KELLY: No.

MR. HOFFSIS: Linda didn't --

MS. KELLY: These aren't required either.

MR. HOFFSIS: -- like that in her suggestions.

MS. KELLY: Yeah. This will -- so I just think it is a suggestion. And, other than that, I can't comment on it. Just like Jim, I personally agree that it would be very difficult and probably not very useful. But that's all I can say about that.

MR. GREENWALD: I'll let it rest then for the time being.

MS. KELLY: Okay. All right. Thank you.

MR. GREENWALD: Thank you.

MS. KELLY: Okay. If there isn't any other questions, Dick is going to conclude this meeting and summarize.

MR. RATLIFF: We won't have a continuation of this meeting on to the 13th.

MR. WILLOUGHBY: We will or will not?

MR. RATLIFF: Will not.

MR. WILLOUGHBY: Will not.

MR. RATLIFF: In terms of expectations from here on out, what we, at the Staff level, and I haven't talked with the Commissioners since the day began, but what I think we want to leave with you is that our effort, as yours, is focused on the applications. The allocations will be made based on the applications.

And we will be trying to determine what information and how it will be structured needs to be included. And what we hope to be able to provide you before Thanksgiving is a set of instructions, either from the Staff or from the Committee, indicating what we want in the way of information in that application. It might be -- I think you got a preview of what that might look like today. Hopefully, based on this meeting, where you've given us a lot of, I think, good ideas and opinions, it'll be somewhat refined. And we'll try to tell you how we want to applications to be structured.

In addition, we may tell you the areas specifically where you may have greater freedom to structure it as you will, if we think we can deal with it.

One of the issues that we've heard today, and this surprised me a little bit, it shouldn't, perhaps just shows my own naivete, it sounds like to me that in terms of some of the requirements in the statute, such as the requirement for 50-percent agricultural pumping, there's going to be difficulty showing how that 50 percent's going to be achieved.

And so we're open to suggestion about how you think that might be accomplished. In fact, we want to make it clear, we're open to suggestion on any of these issues. If you have any further thoughts or suggestions, put them in writing and send them to us.

But particularly on the issue of agricultural pumping, our thought right now is that the strength of the application, in part, may turn on the ability of the applicants to show that, in fact, they will have 50-percent agricultural pumping. So I think you need to focus on that in particular, in our efforts to try to determine what it is, what applications are most viable and actually meet the stated requirements of the statute. So I just wanted to put some emphasis on that particular point.

Beyond that I just thank you for coming. I think you've actually given us a lot of ideas. And I feel much better informed

today than I was yesterday, although I have to say I'm more confused on some issues perhaps than I was before. It's certainly not simple.

MR. MUSSETTER: Dick?

MR. RATLIFF: Yeah.

MR. MUSSETTER: Go over for me please one more time, when does ex parte take effect and to whom does it apply?

MR. RATLIFF: Ex parte will take effect when the Committee tells us it does. That's the bottom line.

We have suggested to the Committee, or I have suggested to the Committee, that it take effect no later than the date the applications are filed. We assume the applications will come in late January, and that at that point, whatever time the first applications come in, ex parte will take effect.

It will apply -- basically what ex parte means is that there will be a separation between the decisionmaker and those who are contributing to the decision. That means all of the people who are filing applications. And for those of us who will be playing in the Staff role, we will also be separated from talking with the Commissioners when the applications are filed.

MR. HOFFSIS: Possibly.

MS. KELLY: Possibly.

MR. RATLIFF: Possibly. We're still trying to refine this proceeding here because it's a little bit different from ones that we've traditionally done.

But I'll tell you, if, in fact, we are going to contribute certainly on any material issues of fact, should there be such issues, and perhaps there won't be any, then if we are going to actually contribute to those, we would be also subject to the ex-parte rule as well.

MR. WILLOUGHBY: Dick, just on that point. It probably need not be said, but in the interest of full disclosure and fairness, I think I ought to say it, that obviously utilities such as PG&E, Edison, San Diego are not going to be applicants.

MR. RATLIFF: You're not applicants, but we can --

MR. WILLOUGHBY: So I think you'll have to structure it in some way so that there is --

MR. RATLIFF: Well, we see you as interested parties. And also subject to the ex-parte contact rule --

MR. WILLOUGHBY: Okay.

MR. RATLIFF: -- once the proceeding -- once that rule takes effect.

MR. WILLOUGHBY: We certainly are interested parties, but I just wanted to make sure you covered that base.

MR. RATLIFF: Right, right.

So, as we see it, everyone's going to be subject to that. Now the onerousness of that is it can make things a little bit difficult, but hopefully not too difficult, because by that point we'll have the applications. And maybe things will fall into place very easily at that point. Maybe it'll be apparent how we're going to make the allocations. Maybe there won't be any factual issues to resolve by hearings.

If that's the case, then if it really comes down to interpretation of the statute, then it will be easier to finally resolve this.

And in that case it probably won't be so important, the ex-parte contact rule. The formality of whatever hearing we should hold will be based on the identification of whatever issues remain and the extent to which they have to be resolved and in some kind of formal way.

Right now we're thinking actually that the kinds of disputes that we've discussed today are not really issues that are factual issues. So they're not really amenable to a kind of a

trial type hearing with rules of evidence and sworn testimony and that kind of stuff, because they're really more issues of a policy nature and of an interpretation of a statute that is, unfortunately, pretty vague in some places there. It was understandably done with great haste.

But I guess what I'm leaving you with is that we're feeling our way on the process. We want to make sure that the process is fair. We want to make sure that it's expeditious also. But we'll be telling you after we get the applications what the end game looks like.

And in the mean- --

MS. KELLY: Not to interrupt you, just who is -- we're trying to get some idea of who are going to file applications.

MR. RATLIFF: Oh, yeah.

MS. KELLY: And that was just where you mentioned that, I don't want to that --

MR. RATLIFF: Can we have some sense of --

MS. KELLY: In this room would people willing to give us some sense of who intends to file an application, yes or no, or...

MR. MAYER: Yeah. Modesto Irrigation District clearly

plans to apply. It's no secret.

MR. MOUNT: Fresno Irrigation.

AUDIENCE MEMBER: Oakdale intends to apply.

MS. KELLY: Oakdale, as well.

Bob.

MR. MUSSETTER: Glenn-Colusa probably will.

MS. KELLY: Okay.

AUDIENCE MEMBER: Byron-Bethany probably will.

MS. KELLY: Oh, okay. All right. Sorry. Just wanted to get this -- everybody keeps saying, ask, ask. So I thought I'd ask.

Somebody had their hand up over here.

MR. RAYNER: Laguna Irrigation District.

MS. KELLY: Laguna, yes.

MR. RATLIFF: Laguna, okay. Unless there's, you know, -- Susan, if you have some final comments, I don't think there's any more to be said for this meeting.

MR. GREENWALD: I have a process question. If I understand the next sort of formal act in this process is you'll be putting out something in a few weeks?

MR. RATLIFF: Yes.

MR. GREENWALD: Well, what is the process? For instance, PG&E said today that they were going to develop a work paper on this \$125 million. What are the obligations to get those documents disseminated to this group?

MS. GEFTER: That would be, as I -- at the very beginning of the meeting, I handed out the address, the dockets. Everyone's supposed to send in their filings to the docket. The docket is then available. Any party or anybody can come in or call dockets and ask for a copy.

We haven't set up any kind of a procedure. It's just proof of service at this point.

MR. GREENWALD: But can we have some --

MS. GEFTER: Individuals aren't required to file on that. But we can establish a process.

MR. GREENWALD: Would that be a problem for you?

MS. KELLY: I have your filing, by the way. And I will docket this file, yes.

MR. RATLIFF: To solve your immediate issue, if you want a copy of that, call us, call one of us.

MR. GREENWALD: Okay.

MS. GEFTER: Call me and I can arrange to have copies

made.

MR. GREENWALD: Okay.

MR. RATLIFF: Thank you.

[Workshop adjourned at 4:13 p.m.]

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I, **SUSAN PALMER**, a duly commissioned Reporter of **CourtScribes**, do hereby declare and certify under penalty of perjury that I have recorded the foregoing workshop which was held and for the **CALIFORNIA ENERGY COMMISSION COMMITTEE WORKSHOP on the Implementation of Restructuring Legislation (Chapter 854, Statutes of 1996 AB 1890) Irrigation Districts** in Merced, California on the **5th day of November 1996**.

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